

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

**CARL V. MARSHALL,
AIS#110574**

Plaintiff,
vs.

RICHARD ALLEN, et al. ,
Defendants.

**CIVIL ACTION NO.
206-CV-1131-MHT**

AMENDED ANSWER
And
SPECIAL REPORT

Defendants file this, their Amended Answer and Special Report, as directed by the Court, and substitute it, in its' entirety, for the original Answer and Special Report.

PETITIONER'S ALLEGATIONS

The Petitioner, an inmate in the Alabama Department of Corrections, currently incarcerated at Red Eagle Farm in Montgomery County, Alabama, initially filed a complaint sounding in Section 1983, alleging certain constitutional violations against Alabama Department of Corrections defendants. Defendants were ordered to investigate and file a special report addressing claims of (1) confiscation of “Christmas package”, (2) denial of adequate access to the courts, and, (3) subjection to unconstitutional conditions of confinement. Defendants filed their initial Answer and Special Report, addressing those issues.

Petitioner filed a response to defendants' Answer and Special Report, which the court treated as an attempt to amend his complaint.

This court then ordered defendants to investigate and file an amended Special Report and Answer, addressing specifically, (1) denial of adequate access to the courts, (2) denial of medical treatment, and , (3) subjection to cruel and unusual punishment.

AMENDED EVIDENTIARY SUBMISSIONS
IN SUPPORT OF RESPONDENT'S AMENDED SPECIAL REPORT

1. Affidavit (2nd) of Lt. Richard Naile (Exhibit 1).
2. Affidavit (2nd) of Capt. Joseph Womble (Exhibit 2).
3. Affidavit (2nd) of Lt. Edwin Lane (Exhibit 3).
4. Affidavit of Officer Jerry Odom (Exhibit 4).
5. Affidavit of Warden Charles Hadley (Exhibit 5).
6. Disciplinary Report for November 29, 2006, Possession of Contraband (Exhibit 6).
7. SOP 09-05, "Emergency Fire Procedure" and fire evacuation plan (Exhibit 7).
8. AR-412, "Institutional Law Libraries" (Exhibit 8).
9. AR-448, "Inmate Mail" (Exhibit 9).
10. October 19, 2006 email from Deputy Commissioner Lovelace re: Christmas package rules (Exhibit 10).
11. December 13, 2006 email from Joseph Womble re: inmates who do not meet package criteria (Exhibit 11).
12. Health Department Food Inspection Report dated April 10, 2006, 96 Score (Exhibit 12).
13. Health Department Detention Facility Inspection Report dated April 10, 2006, reflecting the Red Eagle facility population to be under its rated capacity. (Exhibit 13).
14. State Fire Marshalls' Inspection Report, with notations of corrective actions taken.

(Exhibit 14).

15. UPS shipping Receipt dated December 18, 2006. (Exhibit 15).

16. PMOD Account Transactions Report for Petitioner, dated Jan. 1, 2007 – Jul. 3, 2007, reflecting payment from Christmas package vendor to petitioner. (Exhibit 16).

INVESTIGATIVE RESULTS

Petitioner (hereinafter referred as “Marshall”), makes wildly rambling, broad brush allegations as set out above. Investigative results as to each allegation are discussed below.

Confiscated Christmas Package.

The Department of Corrections has a long standing practice of making special Christmas packages available to inmates, who are in “good standing”, and have not had any disciplinary actions, formal or informal, during the months of November and December. (Exhibits 1,2,3,9).

That policy is well known among the inmates, and is distributed to them well in advance via the inmate bulletin board and notification system. (Exhibits 2 & 3). .

Marshall was convicted of a violation of Rule #64, “Possession of Contraband” on December 5, 2006, for an incident that occurred on November 29, 2006. (Exhibits 1,2,3&6). Therefore, when Marshall’s package arrived, he was not permitted to receive it.

On December 18, 2006, Petitioners’ package, along with others, was picked up by UPS Ground, for return to the outside vendor. (Exhibits 2 & 15).

On April 20, 2007, petitioner received \$55.10 from the gift package vendor, which amount was deposited to petitioners’ PMOD account. (Exhibit 16).

Petitioners’ package was intercepted and returned to the vendor because petitioner was not eligible to receive a Christmas package pursuant to AR 448. (Exhibits 1,2,3,9,10, & 11). Marshall had received a disciplinary for possession of contraband in the month of November, 2006.

(Exhibits 1,2,3 & 6).

Respondents have no control over the package vendor, who is responsible for refunding Marshall his money. Respondents have certainly placed no obstacles in Marshall's way to hinder him receiving any refund he may be entitled to from them.

Marshall has received a refund from the vendor.

Denied Access To Courts

Marshall makes a totally baseless allegation of denial of access to the courts and/or the law library.

The law library has never been shut down and unavailable to inmates. It is fully supplied, and available, subject to certain hour and use limitations. The printer has never been removed. On one occasion, because of abuse and misuse by some inmates, the printer cartridge was briefly removed, pending a decision as to what to do in order to protect the equipment from abuse by a small minority of inmates. (Exhibit 1).

Lt. Lane testifies that the law library is open from 6:00 PM to 9:00 PM and at other times, on request by an inmate, provided security is available. Inmate Marshall has never asked Lane for use of the law library during his shift. As an African American himself, Lane has obviously never discriminated against Marshall, who is an African American. (Exhibit 3).

Captain Womble testifies that the printer was changed from "free access" to "restricted access", due to abuse by some inmates. Law library supplies were ordered on January 29, 2007, and made available to the inmates on February 1, 2007. Marshall has never asked Capt. Womble for any legal supplies. (Exhibit 2).

Marshall has never asked Lt. Naile for any legal supplies. Lt. Naile did learn at one point that there were some abuses of use of the computer printer by some inmates, and he was instructed

to remove the printer cartridge until further instructions from the department legal division.
(Exhibit 1).

As for “retaliation”, none of the respondents was even aware of Marshall’s “litigious bent”, so therefore, they could not possibly be guilty of retaliating against Marshall for his “legal activities” and/or “race”. (Exhibits 1,2,4,5 & 8).

Denied Medical Treatment

Inmate Marshall attempts to assert a claim of “deliberate indifference” due to being “denied medial treatment”.

Defendants are, quite frankly, at a complete loss to find such a claim anywhere in any of petitioners’ pleadings. With no averments as to what defendants did wrong, it is impossible to frame a response to such a bare assertion.

It should first be noted that ADOC does not provide any medical services to inmates. All such services are provided under contract by a medical service provider named Prison Health Services (PHS). All that an inmate has to do to receive medical treatment is to “sign up” to see a doctor, or dentist, or whatever type medical professional they are in need of. ADOC has nothing to do with scheduling appointments with medical personnel or the rendering of any medical services.

In Marshalls’ original complaint, the only reference to medical issues is on his complaint page 11, paragraph 1., which is actually an alleged “damages” listing, combined with a “prayer for relief”. He writes at paragraph 1, “Marshall’s health under hypertension – blood pressure, mental anguish, stress, and actual medical condition has been damage. Marshall was taken to Kilby where medical doctor has had to increase medication for blood pressure and stress. Marshall seeks the full sum of ten thousand dollars each named defendant.”

The only other reference to medical issues is found in Marshalls' "amended complaint" at his paragraph 4 on page 2. "Plaintiff also brought before this Court a substantial claim of medical indifference in the way that he was exposed to Cruel and Unusual punishment through actions which were direct and intentional by Defendants. Plaintiffs' medical condition deteriorated in such a manner as to require him to be transported to a different facility where his medical condition could be assessed and treated. The mere fact that he was transported does not exclude the claim, rather, it supports the fact that he suffered in one way or another, abuse as to cause physical conditions to deteriorate."

Defendants submit to this honorable court that the above fails completely in setting out a claim of "deliberate indifference" and/or a "denial of medical treatment". Marshall fails completely to set out any act or omission against any defendant as to how he (Marshall) was denied medical treatment. It is impossible for defendants to frame an answer to such.

Lt. Naile, as the second shift commander, specifically denies ever denying Marshall any type of medical treatment. (Exhibit 1). No other defendant was ever in a position to have any knowledge of Marshall needing or requesting medical services, and thus, all deny any such claim by Marshall.

Unconstitutional Conditions of Confinement

With no offering of anything to substantiate them, Marshall wildly claims that Respondents have violated his rights by subjecting him to unconstitutional conditions of confinement. Again, it is almost impossible for defendants to decipher what act or omission they are being accused of by Marshall. He apparently is attempting to assert that conditions are a fire hazard and that conditions are unsanitary, but defendants are only guessing that those are the

“unconstitutional conditions” he complains of. Whatever the conditions are that he complains of, he does not ever allege which defendant(s) are guilty of acts of commission or omission to create the alleged conditions.

Respondents simply say that nothing could be further from the truth. Respondents submit for the Court’s review, Exhibits 7, 12, 13 & 14. Exhibit 7 is a copy of SOP 09-05, “Emergency Fire Procedures”, which reflects a detailed and adequate fire escape plan for the entire facility.

Exhibit 12 is a copy of the Health Department Food Inspection Report dated April 10, 2007, reflecting a health rating of 96 !!!! Exhibit 13 is a copy of the Health Department Detention Facility Inspection Report dated April 10, 2006, which reflects the fact that the Red Eagle facility is rated to house a capacity of 308 inmates, but the actual population on the date of inspection was only 267. Exhibit 14 is a copy of a State Fire Marshall Inspection conducted on February 23, 2007, listing minor deficiencies, and noting the corrective actions taken and/or started.

ANSWER

The Defendants assert the following defenses to the Plaintiff’s claims:

1. The Defendants deny each and every material allegation contained in the Plaintiff’s Complaint and demand strict proof thereof.
2. The Plaintiff’s Complaint fails to state a claim upon which relief can be granted.
3. The Defendants cannot be held liable on the basis of *respondeat superior*, agency, or vicarious liability theories.
4. The Plaintiff is not entitled to any relief under 42 U.S.C. § 1983.
5. The allegations contained in the Plaintiff’s Complaint against the Defendants, fail to comply with the heightened specificity requirement of Rule 8 in § 1983 cases against persons sued in their individual capacities. See *Oladeinde v. City of Birmingham*, 963 F.

2d 1481, 1485 (11th Cir. 1992); *Arnold v. Board of Education Of Escambia County*, 880 F. 2d 305, 309 (11th Cir. 1989).

6. The Defendants plead all applicable immunities, including but not limited to sovereign, qualified, absolute, discretionary function, state agent, and statutory law enforcement officer immunity.
7. All claims of the Plaintiff against these Defendants in their official capacity are barred by the Eleventh Amendment to the United States Constitution.
8. The Defendants plead the affirmative defense of contributory negligence and assumption of the risk.
9. The Plaintiff has failed to exhaust his administrative remedies as mandated by the Prison Litigation Reform Act amendment to 42 U.S.C. § 1997e (a) and as such these claims should be dismissed.
10. The Defendants plead the affirmative defense that they are not guilty of any conduct which would justify the imposition of punitive damages against any of them and that any such award would violate the United States Constitution.
11. The Plaintiff has failed to comply with 28 U.S.C. § 1915 with respect to the requirements and limitations inmates must follow in filing in forma pauperis actions in federal court.

Pursuant to 28 U.S.C. § 1915 A, this court is requested to screen and dismiss this case, as soon as possible, either before or after docketing, as this case is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks money damages from the Defendants who are state officers entitled to immunity as provided for in 42 U.S.C. § 1997 (e) (c).

ARGUMENT

Marshall does not, with any specificity whatsoever, allege any actions or inaction on the

part of these Defendants which would subject them to liability under 42 U.S.C. Section 1983.

Based on the above evidentiary submissions of Respondents, there simply is no factual basis to any of Marshall's absurd claims. Marshall offers nothing but wildly speculative and unsubstantiated assertions. The burden is on the petitioner to come forward with more than mere speculation and accusatory innuendo. Marshall has completely failed to meet his burden, and Respondents are entitled to a dismissal of all of Marshall's claims, and for costs and other appropriate sanctions to be assessed against Marshall for his completely frivolous and factually and legally baseless petition.

OFFICIAL CAPACITY

Defendants argue that each ADOC defendant is sued in his official capacity, **only**. Marshall has failed to allege, and offers no evidence, that any defendant has acted in his individual capacity to harm petitioner.

Plaintiffs' complaint, as amended, makes broad brush allegations against Alabama Department of Corrections employees "Commissioner Richard Allen, Warden Charles Hadley, Captain Joseph Womble, Lt. Edwin Charles Lane, Lt. Richard Naile, Officer Jerry Odom, and attorney Kim Thomas." At all times, petitioner makes reference to each defendant by identifying them by their official "title" or "position". All claims asserted by inmate Marshall arise out of their official duties, and in their official capacities as employees of the Department of Corrections. Petitioner makes no reference whatsoever to any defendant being sued in his individual capacity.

Therefore, defendants argue that they are entitled to 11th Amendment \ Sovereign Immunity, and offer the following as authority.

11th Amendment Immunity / Sovereign Immunity

Plaintiff's federal claims (as well as all state pendente claims) under 42 U.S.C., Section

1983 against these defendants in their official capacity, are barred by the 11th Amendment to the United States Constitution. Therefore, the plaintiff's claims against these defendants under Section 1983 are due to be dismissed as a matter of law for lack of subject matter jurisdiction. The 11th Amendment to the U.S. Constitution bars the federal court from exercising jurisdiction over states. Ex Parte Young, 209 U.S. 123.

Claims against the State of Alabama and its agencies, officers and agents, under Section 1983, are barred by the 11th Amendment to the United States Constitution. Free v. Granger, 887 F.2d 1552, 1557 (11th Cir. 1989); see also Dean v. Barber, 951 F.2d 1210, 1215 (11th Cir. 1992).

The 11th Amendment to the Constitution of the United States of America bars any claims, including any and all pendent state law claims, against a state or its officials in the absence of the consent of the state. See Pennhurst State School and Hospital v. Halderman, 465 U.S. 89, 99-100 (1984) (wherein the Supreme Court of the United States held that the 11th Amendment barred any and all state law claims brought in U.S. District Court under pendent jurisdiction, as well as under Section 1983.) Marshall has failed to allege, and he offers no evidence whatsoever that there has been a waiver of the State of Alabama's 11th Amendment immunity in this case. Therefore, his claims against these defendants in their official capacity, are all barred for lack of subject matter jurisdiction.

The State of Alabama and all of its services must operate through its agencies, officers and employees. The courts are firm in their holdings that state agencies, officers and employees are absolutely immune from tort liability. Rutledge v. Baldwin Co. Commission, 495 So.2d 49 (Ala. 1986).

The State of Alabama, its agencies, officers and employees, in their official capacities and individually, are absolutely immune from suit. These defendants, as officers, employees and

agents of the Alabama Department of Corrections, are entitled to invoke sovereign immunity from suit even though there may be some individual officials named as nominal defendants in the suit. See Destafney v. University of Alabama, 413 So.2d 391 (Ala. 1981).

INDIVIDUAL CAPACITY

To the extent that the court chooses to treat petitioners' complaint as being an "individual capacity" suit, defendants add the following arguments and authorities.

Heightened Pleading Requirement

It should first be noted that a plaintiff's pleading standard is elevated and "heightened" when claims are made against government officials. The Eleventh Circuit has made it clear:

Some factual detail in the pleadings is necessary to the adjudication of § 1983 claims. This is particularly true in cases involving qualified immunity, where we must determine whether a defendant's actions violated a clearly established right. Accordingly, when reviewing a district court's disposition of a motion to dismiss a § 1983 claim on qualified immunity grounds, we are guided both by the regular 12(b)(6) standard and by the heightened pleading requirement.

G. J. R. Investments, Inc. v. Escambia, Florida, 132 F.3d 1359, 1367 (11th Cir. 1998). In the instant case, plaintiff's allegations against Defendants are conclusory at best and they do not provide a basis for determining what, if any, constitutional violation is alleged against which defendant, or exactly what each defendant is accused of doing or failing to do. The plaintiff has thus failed to meet the mandated "heightened pleading" requirement for a 1983 action.

Respondeat Superior

The claims asserted against these defendants are clearly predicated on the doctrine of *respondeat superior* and such liability does not exist. Monell v. New York City Dept. Of Social Services, 43 U.S. 658, 98 S.Ct. 2018, 67 L.Ed. 611 (1978); Smith V. Siegelman, 322 F.3d 1290, 1295 (11th Cir. 2003); Hartley v. Parnell, 193 F.3d 1263, 1269 (11th Cir. 1999). The theory of

vicarious liability or *respondeat superior*, is unavailable under Section 1983. *Farrow v. West* 320 F.3d 1235 (11th Cir. 2003).

ARTICLE V **Executive Officer Immunity**

Under Article V, Section 112 of the Alabama constitution, defendants are executive officers of the State of Alabama. *See, Hafer v. Melo*, 502 U.S. 21, 25, 112 S.Ct. 358, 361, 116 L.Ed.2d 301 (1991) Defendants are shielded from suit, whether individually or in their official capacity, as an executive officer of the State of Alabama, including any constitutional claims, by Article I, Section 14 of the Alabama Constitution. *See, Alabama State Docks v. Saxon*, 631 So.2d 943, 946 (1994) (“[Under] Article I, § 14, Alabama Constitution ... [s]tate officers and employees, in their official capacities and individually, also are absolutely immune from suit when the action is, in effect, one against the state.”). This immunity extends to all the state law claims asserted by the plaintiff. *Alexander v. Hatfield*, 652 So.2d 1142, 1143 (Ala. 1994). *Cf., Tinney v. Shores*, 77 F.3d 378, 383 (11th Cir. 1986) (“Under Alabama law, both sheriffs and deputy sheriffs are considered executive officers of the state, immune from suit under Section 14 . . . Alabama intended for its state officers to be immune from suit.”).

Qualified Immunity

These defendants are entitled to qualified immunity.

Plaintiff has failed to produce any legal authority which makes it obvious to all reasonable government actors in the defendants’ shoes that “what he is doing violates federal law.” *See, Lassiter v. Alabama A & M Univ. Bd. Of Trustees*, 28 F.3d 1146, 1149 (11th Cir. 1994). (“Qualified immunity protects government officials performing discretionary functions from civil trials (and the other burdens of litigation, including discovery) and from liability if their conduct

violates no “clearly established statutory or constitutional rights of which a reasonable person would have known.”) *quoting*, Harlow v. Fitzgerald, 457 U.S. 800, 818, 102 S.Ct. 2727, 2738, 73 L.Ed.2d 396 (1982); Siegert v. Gilley, 500 U.S. 226, 231-33, 111 S.Ct. 1789, 1793, 114 L.Ed.2d 277 (1991). “A plaintiff cannot avoid the qualified immunity defense ‘by referring to general rules and to the violation of abstract ‘rights’.” Chesser v. Sparks, 248 F.3d 1117, 1122 (11th Cir. 2001). Plaintiff’s reliance on Marsh v. Butler County, Alabama, 268 F.3d 1014 (11th Cir. 2001), is misplaced inasmuch as the case dictates:

Once the affirmative defense of qualified immunity is advanced, the allegations of the complaint take on great importance in a lawsuit. **“Unless the plaintiff’s allegations state a claim of violation of clearly established law, a defendant pleading qualified immunity is entitled to dismissal before the commencement of discovery.”** Mitchell v. Forsyth, 472 U.S. 511, 105 S.Ct. 2806, 2815, 86 L.Ed.2d 411 (1985); Behrens v. Pelletier, 516 U.S. 299, 116 S.Ct. 834, 840, 133 L.Ed.2d 773 (1996) (“At the [12(b)(6)] stage, it is the defendant’s conduct as alleged in the complaint that is scrutinized for ‘objective legal reasonableness.’”).

268 F.3d at 1022.

Access To Courts

Inmate petitioner Marshall challenges the adequacy of the law library, claiming “rights” to all sorts of equipment and services, such as computers, printers, and that he is being “...deprived the fair access to legal materials and equipment...”

The law is well settled that prison inmates are entitled to “a reasonably adequate opportunity to present claimed violations of fundamental constitutional rights to the courts.”

Bounds v. Smith, 430 U.S. 817, 825 (1977). In ***Lewis v. Casey***, 518 U.S. 343 (1996), the Supreme Court clarified and limited the right to assistance created in ***Bounds***.

Specifically, the Court held that “an inmate alleging a violation of ***Bounds*** must show actual injury” arising from the alleged inadequacies in the law library or legal assistance program.

Lewis, 518 U.S. at 349. In identifying the specific right protected by *Bounds*, the court explained that “*Bounds* established no ... right [to a law library or to legal assistance]. The right that *Bounds* acknowledged was the (already well-established) right of *access to the courts*...[P]rison law libraries and legal assistance programs are not ends in themselves, but only the means for ensuring ‘a reasonably adequate opportunity to present claimed violations of fundamental constitutional rights to the courts.’” *Id.* At 350-351 (emphasis in original) (citations omitted). The Court further determined that *Bounds* did not require “that the State ... enable the prisoner to *discover grievances* and to *litigate effectively* once in court... To demand the conferral of such sophisticated legal capabilities upon a mostly uneducated and indeed largely illiterate prison population is [not something] ... the Constitution requires.” *Id.* at 354 (emphasis in original).

The Court likewise rejected the argument that the mere claim of a systemic defect, without a showing of actual injury, presented a claim sufficient to confer standing. *Id.* at 349. Moreover, Lewis emphasizes that a *Bounds* violation is related to lack of an inmate’s capability to present claims. 518 U.S. at 356. “*Bounds*, which as we have said guarantees no particular methodology but rather the conferral of a capability – the capability of bringing contemplated challenges to sentences or conditions of confinement before the courts. When any inmate ... shows that an actionable claim of this nature which he desired to bring has been lost or rejected, or that the presentation of such a claim is currently being prevented, because this capability of filing suit has not been provided, he demonstrates” the requisite actual injury. *Lewis*, 518 U.S. at 356. Finally, the Court discerned that the injury requirement is satisfied only when an inmate has been denied “a reasonably adequate opportunity to file non-frivolous legal claims challenging [his] convictions or conditions of confinement.... [I]t is the capability, rather than the capability of turning pages in a law library, that is the touchstone.” *Id.* at 356-357. “[T]he Constitution does

not require that prisoners ... be able to conduct generalized research, but only that they be able to present their grievances to the courts – a more limited capability that can be produced by a much more limited degree of legal assistance.” *Id.* at 360. The Court admonished that federal courts should allow prison officials to determine the best method of ensuring that inmates are provided a reasonably adequate opportunity to present their non-frivolous claims of constitutional claims of constitutional violations to the courts. *Id.* at 356. A federal district court must “‘scrupulously respect [] the limits on [its] role,’ by ‘not ... thrust[ing] itself into prison administration’ and instead permitting ‘[p]rison administrators [to] exercis[e] wide discretion within the bounds of constitutional requirements.’ [*Bounds*, 430] U.S. at 832-833, 97 S.Ct. at 1500.” *Id.* at 363.

Marshall, quite clearly knows his way to the courthouse, and he makes no showing that he is prevented in any way from “...presenting his grievances to the government.”

Marshall has failed to establish the requisite injury. *Lewis*, 518 U.S. at 356. Summary judgment is therefore due to be granted in favor of defendants. *Chandler v. Baird*, 926 F.2d 1057 (11th Cir 1991).

DELIBERATE INDIFFERENCE
Medical Care \ Causal Connection \ Mere Negligence

Petitioner claims that he was denied adequate medical treatment. Health care is not provided by the Department of Corrections, but rather by a contract medical provider, Prison Health Services.(PHS). Therefore, these defendants do not involve themselves in the daily medical decisions or medical treatment of state inmates

The language of 42 U.S.C. § 1983 requires proof of a causal connection between the purported actions or omissions of a Defendant and any constitutional deprivation of Petitioner. *Jones v. Pruett & Mauldin*, 851 F. 2d 1321 (11th Cir. 1988). The requisite causal connection may

be shown by the personal participation of the Corrections Defendant, a policy or custom established by a specifically identified Corrections Defendant which results in a deliberate indifference to the plaintiff's rights or a breach of a duty imposed by state or local law. *Zatler v. Wainwright*, 802 F. 2d 397 (11th Cir. 1986).

Petitioner's' complaint fails to specifically allege that any of these defendants had the ability to establish a custom or policy in regards to the alleged actions or omissions of the PHS personnel at the facility. Further, the complaint fails to allege a causal connection between the purported custom or policy and alleged injury or harm to Petitioner.

The government has an obligation to provide medical care to those it incarcerates. See *Estelle v. Gamble*, 429 U.S. 96, 103 (1976). Deliberate indifference to the serious medical needs of inmates constitutes the unnecessary and wanton infliction of pain prohibited by the Constitution. *Id.* at 104 (quoting *Gregg v. Georgia*, 428 U.S. 153, 173 (1976)). In *Estelle*, the Supreme Court held that a prison physicians' negligence in diagnosing or treating a medical condition was not sufficient to establish a claim of deliberate indifference under the Eighth Amendment. 429 U.S. at 106. Medical malpractice is not a constitutional violation simply because the victim is a prisoner (*Id.*). Clearly, the obvious care provided to Petitioner was neither inhumane nor involves the unnecessary and wanton infliction of pain.

Petitioner must establish acts or omissions of any Corrections Defendant sufficiently harmful to evidence deliberate indifference to serious medical needs. (*Id.*); see also *McElligott v. Foley*, 182 F.3d 1248, 1254 (11th Cir. 1999). The Supreme Court noted in *Estelle* that the plaintiff's primary allegation was that more should have been done to diagnose and treat a back injury. *Id.* at 107. In *Estelle*, the Court explained, a medical decision not to order an X-ray, or like measures, does not represent cruel and unusual punishment. At most it is medical

malpractice Id. Deliberate indifference to an inmates' serious medical needs is shown when prison officials have prevented [him] from receiving recommended treatment or when an inmate is denied access to medical personnel capable of evaluating the need for treatment." *Ancata v. Prison Health Services, Inc.*, 769 F.2d 700, 704 (11th Cir. 1985).

Marshall offers nothing but bare, self-serving, conclusory allegations that he was somehow denied medical treatment. He fails to offer any evidence whatsoever as to who denied him treatment or what they did to deny him treatment. There is absolutely no evidence that any Corrections Defendant prevented Petitioner from getting medical treatment.

DELIBERATE INDIFFERENCE
Prison Conditions / Cruel and Unusual Punishment

The Eighth Amendment governs the conditions under which convicted prisoners are confined and the treatment they receive while in prison. See *Farmer v. Brennan*, 511 U.S. 825, 832 (1994) (quoting *Helling v. McKinney*, 509 U.S. 25, 31 (1993)).

While [t]he Constitution does not mandate comfortable prisons, it does not permit inhumane ones (*Id.*) (internal citations omitted). The Eighth Amendment requires prison officials to provide humane conditions of confinement; and ensure that inmates receive adequate food, clothing, shelter, and medical care, and must take reasonable measures to guarantee the safety of the inmate.(*Id.*) (quoting *Hudson v. Palmer*, 468 U.S. 517, 526-57 (1984)).

"To establish a viable eighth amendment claim, the evidence must show that the measure taken inflicted unnecessary and wanton pain and suffering or was totally without penological justification." *Ort* at 322. Other citations omitted.

In order to succeed on a claim that prison [conditions] violated the Plaintiff's Eighth Amendment rights, Plaintiff must first prove that conditions were, objectively, sufficiently serious,

and that the Defendant acted with sufficiently culpable state of mind so as to constitute deliberate indifference to Plaintiff's health or safety by acting or failing to act despite knowledge of such substantial risk of serious harm. *Stephens v. Johnson* 83 F3d. 198 (8th Cir.1995).

However, not every governmental action affecting the interest or well-being of a prisoner is to be scrutinized by the courts; rather, [a]fter incarceration, only the unnecessary and wanton infliction of pain . . . constitutes cruel and unusual punishment forbidden by the Eighth Amendment. *Whitley*, 475 U.S. at 319 (quoting *Ingraham v. Wright*, 430 U.S. 651, 670 (1977)) (internal quotation marks omitted).

The Supreme Court, in the case of *Wilson v. Seiter*, 501 U.S. 294 (1991) at 301-05, in discussing the "deliberate indifference" standard, stated that prison officials mere negligence does not equal deliberate indifference.

See also *Riccardo v. Rausch*, 375 F.3rd 521, 525-27, which holds that a prison officials' failure to alleviate a significant safety risk did not rise to the level of deliberate indifference. The Riccardo court held that even if a jury could conclude that the official should have known of the risk, "reasonableness" is a negligence standard, and negligence does not give rise to an 8th Amendment claim.

A negligent act or omission will not support a claim under Section 1983. *Ray v. Foltz* 2004 WL 1144698 (11th.Cir. May 24, 2004). See also *Taylor v. Ledbetter*, 818 F2d. 791, 794 (11th.Cir. 1987).

It is deliberateness and wantonness, not inadvertence or error in good faith, that characterize the conduct prohibited by the Cruel and Unusual Punishment Clause, whether that conduct occurs in connection with establishing conditions of confinement, supplying medical needs, or restoring control over a tumultuous cellblock. *Whitley*, 475 U.S. at 319.

With Health Inspections of 96, a population less than the rated capacity, and no serious fire inspection deficiencies, Marshall simply has no legs to stand on. Marshall has failed to demonstrate any set of facts which supports a claim that he is somehow being subjected to cruel and unusual punishment or even what the "cruel and unusual treatment" is.

CONCLUSION

Inmate Marshall fails to assert and support any act or omission on the part of any defendant which rises to the level of a constitutional violation.

Respectfully submitted,

/s/ Neal P. Conner

NEAL P. CONNER (CONN2024)
ASSISTANT GENERAL COUNSEL

ADDRESS OF COUNSEL:

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(334)353-3889

CERTIFICATE OF SERVICE

I do hereby certify that on the 9th day of July, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system,

And I hereby certify that I have mailed a copy of the forgoing via United States Mail properly addressed, postage prepaid first class to:

Carl V. Marshall, AIS # 110574
Red Eagle Honor Farm
1290 Red Eagle Road
Montgomery, AL 36110

/s/ Neal P. Conner
NEAL P. CONNER (CONN2024)
ASSISTANT GENERAL COUNSEL

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

CARL V. MARSHALL, 110574,

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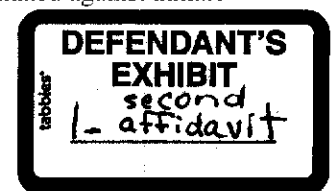
AFFIDAVIT

Before me, the undersigned authority, a Notary Public in and for the State of Alabama at Large, personally appeared Richard Naile, Correctional Lieutenant, who being known to me and being by first duly sworn, deposes and says the following:

My name is Richard Naile. I am currently employed with the Alabama Department of Corrections as a Correctional Lieutenant at Red Eagle Honor Farm in Montgomery, Alabama. I am over twenty-one years of age.

I, as the Second Shift Commander, did oversee the issue of Christmas Packages to Red Eagle Honor Farm inmates who were eligible. When advised that inmate Marshall's package had arrived at the Institution, and that it was not authorized due to his having received disciplinary action, I advised inmate Marshall the package was not authorized and would be returned. I acted as directed by my superiors pertaining to this incident. Inmate Marshall's claim that the package was not issued based on an act of retaliation for his legal activities is incorrect. The sole reason inmate Marshall's package was not issued was because inmate Marshall was not eligible due to his having received disciplinary action in the form of a behavior citation for Possession of Contraband on November 29, 2006. I did not violate any procedure, rule, regulation, or law by not issuing inmate Marshall the package.

I did not, nor have I ever denied inmate Marshall access to the courts. I have no knowledge of inmate Marshall being denied access to the Law Library. I have never racially discriminated against inmate



Marshall in any manner, means, method or way. I am unaware of inmate Marshall ever having "assisted" other inmates with their legal work. Therefore, no manner of retaliation has ever been taken by me. I have never initiated any type disciplinary action against inmate Marshall nor have I ever passed judgement on him for any action he has received. To my knowledge, the Law Library Computer hardware was never, nor has it ever been removed from the library. Inmate Marshall has never asked me for any type of "legal supplies", therefore I never denied him. However, when it was learned that abuses/misuses of the privilege and equipment were occurring, I was instructed to remove the printer cartridge until guidelines could be obtained from the Department's Legal Division. Again, I acted at the direction of my superiors. During my watch, all inmates were afforded access to the Red Eagle Law Library.

I have never knowingly subjected inmate Marshall to any state health law violations, state fire code violations, and exposure to contagious disease or the spread of such diseases. I never denied inmate Marshall proper medical care, emergency medical care or medical treatment. Inmate Marshall never advised or complained to me of any type violations pertaining to state health law violations, state fire code violation or exposure to contagious disease or the spread of such disease. Therefore, I never subjected him to unconstitutional conditions of confinement.

I did not, nor have I ever conspired, retaliated, denied, or discriminated against inmate Marshall. I have not violated any of inmate Marshall's constitutional rights.

LT Richard Naile
LT. RICHARD NAILE

STATE OF ALABAMA:

COUNTY OF MONTGOMERY:

Sworn to and subscribed before me and given under my hand and official seal on this the 3rd day of July, 2007.

Jennifer A. Baker
NOTARY'S SIGNATURE

My Commission expires 8-26-07 (Date)

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA

CARL MARSHALL, #110574

Plaintiff,

vs.

RICHARD ALLEN, et al.,

Defendant

Case No. 2:06-CV-1131-MHT

AFFIDAVIT

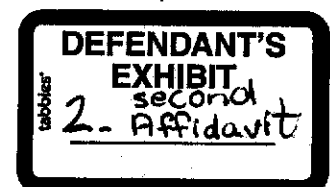
Before me, the undersigned authority, a Notary Public in and for the State of Alabama at Large, personally appeared Joseph Womble who being known to me and being by me first duly sworn, deposes and says on oath as follows:

My name is Joseph Womble. I am currently employed with the Alabama Department of Corrections as a Correctional Captain at Red Eagle Honor Farm in Montgomery, Alabama 36110. I am over twenty-one years of age and have personal knowledge of the facts set forth below:

Inmate Carl Marshall was eligible for a Christmas package at the time he placed the order and the money was withdrawn from his PMOD account. Inmate Marshall received a citation on December 8, 2006, which made inmate Marshall ineligible for the package. The criteria for inmates to meet in order to receive a package were posted in the daily newsletter for the inmate population. All packages were handled in accordance with Administrative Regulation 448, as directed by an email from the Commissioner's Office. On December 18, 2006 UPS Ground picked up a package to be returned to American Commissary (see attached receipt) in which inmate Marshall's package was included. The package was confiscated, only because he did not meet the criteria and no other reason.

Inmate Marshall was not denied access to the courts. The printer was removed from free access to restricted access due to misuse. I ordered supplies for the law library on January 29, 2007. The supplies came in and were made available to the inmate population on February 1, 2007. Inmate Marshall did not request any legal supplies from me.

Red Eagle Honor Farm has been inspected by the State Health Department and the State Fire Marshall's Office. Both reports reflect minor discrepancies that have been corrected. Cleanliness is a top



priority at the facility. I am not aware of any illnesses that are related to any health or fire code violations. Inmate Marshall has not been subjected to any unconstitutional conditions of confinement.

I have not conspired or retaliated against Inmate Marshall, nor have I violated any of his constitutional rights. I have based all of my decisions on policies and procedures, not inmate Marshall's racial origin.

Joseph Womble
JOSEPH WOMBLE

STATE OF ALABAMA:

COUNTY OF MONTGOMERY:

Sworn to and subscribed before me and given under my hand and official seal on this the 3rd
day of July, 2007.

Jennifer A. Baker
NOTARY'S SIGNATURE

My Commission expires 8-26-2007 (Date)

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA

CARL MARSHALL, #110574

Plaintiff,

vs.

RICHARD ALLEN, et al.,

Defendant

Case No. 2:06-CV-1131-MHT

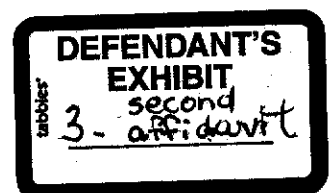
AFFIDAVIT

Before me, the undersigned authority, a Notary Public in and for the State of Alabama at Large, personally appeared Edwin Charles Lane who being known to me and being by me first duly sworn, deposes and says on oath as follows:

My name is Edwin Charles Lane. I am currently employed with the Alabama Department of Corrections as a Correctional Lieutenant at Red Eagle Honor Farm in Montgomery, Alabama 36110. I am over twenty-one years of age and have personal knowledge of the facts set forth below.

Inmate Carl Marshall alleges that I deprived Inmate Carl Marshall of his Christmas package. Inmate Carl Marshall alleges that I conspired to deny Inmate Carl Marshall of a Christmas package after Inmate Carl Marshall filed a complaint against Red Eagle Honor Farm.

According to Alabama Department of Corrections Administrative Regulation 448: Inmate Mail and Red Eagle's SOP, inmates that receive informal/formal disciplinary action during the months of November or December are prohibited from receiving Christmas packages. Criteria for receiving a Christmas package was provided in the newsletter in the months of October 2006 through December 2006. American Commissary Supply delivered Inmate Marshall's Christmas Package during the month of December. The packages received were issued according to the eligibility of the inmates. Inmate Marshall had received a citation during the month of December for rule violation # 64, Possession of Contraband. Inmate Marshall's locker box had an onion, and a tattoo gun inside. Contraband is defined as any item that is not issued by the ADOC, bought from the canteen or approved in writing by the Warden. Therefore, the onion and the tattoo gun is contraband. Disciplinary Action was initiated by Lt. Lane against inmate Marshall for rule violation # 64 - Possession of Contraband. Inmate Marshall's Christmas Package was not



confiscated but it was returned to American Commissary Supply by UPS due to inmate Marshall not being eligible to receive his Christmas Package. I am not aware of any of inmate Marshall's legal activities, except this complaint.

Inmate Marshall alleges that Lt. Lane denied him access to the courts due to racial discrimination. The Law Library at Red Eagle Honor Farm is open from 6:00 p.m. to 9:00 p.m. The Law Library is also open at the request of an inmate provided security is available. Inmate Marshall has never requested to use the Law Library during my tour of duty. I did not discriminate against inmate Marshall due to racial origin; I am an Afro-American just as inmate Marshall is an Afro-American.

Red Eagle Honor Farm is inspected by the Alabama Department of Public Health once a year. The Health Department uses a standard form to inspect the facility. Red Eagle was inspected and given a score of 96. During my tour of duty I inspect all areas of the facility to ensure proper cleanliness and sanitation. Any discrepancies found are corrected immediately.

I have not conspired or retaliated against inmate Marshall, nor have I violated any of inmate Marshall's constitutional rights. I have based all of my decisions on policies and procedures, not inmate Marshall's racial origin.

Edwin Charles Lane
EDWIN CHARLES LANE

STATE OF ALABAMA:

COUNTY OF MONTGOMERY:

Sworn to and subscribed before me and given under my hand and official seal on this the 5TH
day of July, 2007.

Randy Frank
NOTARY'S SIGNATURE

My Commission expires 01/31/2011 (Date)




UPS Ground S.D.P.
Shipping Document

 See instructions on back.
 Visit UPS.com or call 1-800-PICK-UPS® (800-742-5877) for additional information.

 TRACKING NUMBER **K019 407 973 1**
1) SHIPMENT FROM

 SHIPPER'S UPS ACCOUNT NO.
 UPS ACCOUNT NO. **69261E**

REFERENCE NUMBER

NAME TELEPHONE

 COMPANY **REN EATLE Acorn Farm**

STREET ADDRESS

CITY AND STATE ZIP CODE

2) DELIVERY TO

NAME TELEPHONE

 COMPANY **American Community Handy Supply**

STREET ADDRESS

CITY AND STATE ZIP CODE

 DEPT./FLR. Residential Delivery ☐

3) WEIGHT WHOLE LBS. ONLY **52**

OVERSIZE

 OS 1 ☐ OS 2 ☐ OS 3/4P ☐

SHIPPER'S COPY

G
CHARGES
4) GROUND S.D.P. SHIPPING CHARGES \$

5) OPTIONAL SERVICES
☐ **INSURED VALUE** \$ AMOUNT \$

☐ **C.O.D. shipping may be available at UPS.com**
6) ADDITIONAL HANDLING CHARGE \$

7) METHOD OF PAYMENT
☐ **BILL SHIPPER** ☒ **BILL RECEIVER** ☐ **BILL THIRD PARTY** ☐ **CREDIT CARD** ☐ **AMERICAN EXPRESS** ☐ **DISCOVER** ☐ **MASTERCARD** ☐ **VISA**
8) RECEIVER'S/THIRD PARTY'S UPS ACCT. NO. OR MAJOR CREDIT CARD NO.

EXPIRATION DATE

THIRD PARTY'S COMPANY NAME

STREET ADDRESS

CITY AND STATE ZIP CODE

9) SHIPPER'S SIGNATURE **DATE OF SHIPMENT**

 All shipments are subject to the terms contained in the UPS Tariff and Terms and Conditions of Service, which are available at ups.com and local UPS offices.

 This form not needed with UPS Internet Shipping at UPS.com

021295 1 / 04 1MW

ALABAMA DEPARTMENT OF PUBLIC HEALTH
FOOD ESTABLISHMENT / RETAIL FOOD STORE INSPECTION REPORT

Montgomery COUNTY HEALTH DEPARTMENT SCORE 96

LEGAL NOTICE TO THE PROPRIETOR OR MANAGER: You are respectfully notified of such violations of the Alabama State Board of Health Rules for Food Establishment Sanitation as are indicated by a circle in the Inspection Report. This report constitutes an official notice to comply with Chapter 420-3-22 of the aforesaid Rules within a period of _____ days. Failure to comply with this notice may result in cessation of food service food store operations.

ESTABLISHMENT NAME Red Eagle Manor Farm OWNER OR MANAGER NAME _____

ADDRESS 1290 Red Eagle Road Montgomery, AL 36110- State of Alabama ZIP CODE _____

Date Prev Insp 03/31/05

PERMIT NUMBER	MO.	DAY	YEAR	INSR. TIME	PERMITTED	PRIORITY CAT.	COMPLIANCE VISIT/ INSP. REQUIRED	NO. OF COMPL. TESTS
	<u>04</u>	<u>10</u>	<u>06</u>	OUT <input type="checkbox"/> IN <input type="checkbox"/>	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	<u>01</u>	YES <input type="checkbox"/> NO <input type="checkbox"/>	<u>1</u>

43 Jail/Prison Food Service
MANAGEMENT AND PERSONNEL

01*	Assignment of Person in Charge; Commissioned. Personnel with infections restricted, excluded. No discharges from eyes, nose, mouth.	
02*	Hands clean; properly washed. No bare hand contact; approved alternative. No eating, drinking, tobacco use.	5
03*	Demonstration of knowledge: Approved course, other requirements met.	+2
04	Clean clothes; Hair restraints; No unauthorized personnel. Other.	

FOOD

05*	Safe; Source; Condition; Not adulterated; Shellstock tags; Compliance plan/ROP. Other.	
06*	Potentially hazardous food meeting temperature requirements during receiving, cooking, hot holding, cooling. Pasteurized eggs used if required.	
07*	Potentially hazardous food meeting temperature requirements during cold holding. Time as a public health control. Consumer Advisory used if required.	5
08*	Food separated, protected from contamination. Testing. Returned, repurpose of food.	8
09	Cooling methods. Facilities to maintain product temperature. Plan: food cooking.	1
10	Properly labeled; Original containers. Records. Code date limits.	1
11	Thermometers provided, accurate, conspicuous.	1
12	Approved thawing methods used.	1
13	Food contamination prevented during storage, preparation, display, handling, other. <u>use deep freeze for raw meat</u>	1
14	In use, between use, food/ice dispensing utensils properly stored.	1

EQUIPMENT, UTENSILS, AND LINENS

15*	Equipment: food contact surfaces (non-cooking) clean; sanitized. Sanitization temperature, concentration, time.	5
16*	Food contact surfaces characteristics. Single service use used when required.	4
17	Cooking surfaces, non-food contact surfaces: clean. Frequency; Methods.	1
18	Food (ice), Non-food contact surfaces: constructed, cleanable, installed, located.	1
19	Warewashing facilities: designed, constructed, maintained, installed, located, operated. Accurate thermometers, Chemical test papers.	1
20	Linens properly stored, dried, handled. Laundering facilities used.	1
21*	Wiping cloths: clean, use limitations.	1
22*	Storage, handling, drying of equipment, utensils. <u>use in kitchen</u>	1
23	Single service articles, storage, dispensing, wrapped. Use limitations. Gloves used properly.	1

WATER, PLUMBING, AND WASTE Services May 4
Providing Safe Food June 16

24*	Water: Source; Quality, Category, System; Approved.	4
25*	Sewage, grease disposal: System approved; Flushed (mobile).	4
26*	Cross connection: Back siphonage; Backflow.	4
27*	Handwashing facilities: Toilets; Number, location.	4
28	Water supply, Waste disposal: Approved system (fixtures), materials, design, operation; maintenance. Other liquid wastes properly disposed. Service sink provided.	1
29	Hot washing facilities: Soap, towels/drying device, Use restrictions.	2
30	Rest rooms constructed, supplied.	1
31	Refuse, recyclables, and returnables. Outdoor/indoor storage area approved. Receptacles provided; covered. Approved refuse disposal method.	1

PHYSICAL FACILITIES

32*	Food contamination prevention: cleaning equipment, practices.	2
33*	Presence of insects, rodents, other pests. Animals prohibited.	4
34	Pests control methods approved, used. Pest control devices serviced, required.	1
35	Freedom. Free of litter, harborage.	1
36	Floors, walls, ceilings, attached equipment: clean. Floor openings protected. <u>dishwash area</u> Surface characteristics, interior, outdoor: Maintained. Cleaning frequency, duties, methods. Absorbent floor material properly used.	1
37	Lighting, Ventilation: adequate. Ventilation system (filters), clean, operated. Light shields provided. Dressing areas provided. Designated areas properly located. Living/sleeping quarters separation.	1
38	Cleaning, maintenance tools properly stored.	1

POISONOUS OR TOXIC MATERIALS

40*	Poisonous items; Medicines; First aid materials: Stored; Labeled; Used.	2
41	Other personal care/first aid items: Stored; Labeled. Toxic or poisonous materials separation; Non-toxic tracking powder.	1

OTHER

42	Permit, Report, Other properly posted. Administrative requirements, HACCP plan.	1
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RECEIVED BY: Name Jimatt Ramey INSPECTED BY: Name Cindy Goocher
Title State Health Officer

REMARKS _____

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA

CARL MARSHALL, #110574

Plaintiff,

vs.

RICHARD ALLEN, et al.,

Defendant

Case No. 2:06-CV-1131-MHT

AFFIDAVIT

Before me, the undersigned authority, a Notary Public in and for the State of Alabama at Large, personally appeared Jerry Odom who being known to me and being by me first duly sworn, deposes and says on oath as follows:

My name is Jerry Odom. I am currently employed with the Alabama Department of Corrections as a Correctional Officer at Red Eagle Honor Farm in Montgomery, Alabama 36110. I am over twenty-one years of age and have personal knowledge of the facts set forth below.

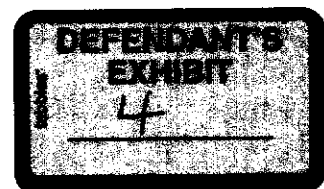
All computer equipment for Red Eagle Honor Farm has been placed in the Law Library and is working correctly. The equipment has not been removed from the Law Library since being placed there.

I have no knowledge of Inmate Marshall being retaliated against for filing complaints against state officials. It is against Red Eagle Honor Farm's SOP for one inmate to do another inmate's legal work. However, I have no knowledge of inmate Marshall being retaliated against.

I have no knowledge of Inmate Marshall being retaliated against by myself for exercising his 1st and 6th amendment rights under the constitution. And there have been no conspiracy against Inmate Marshall.

All inmates at Red Eagle Honor Farm have access to the Law Library no matter what race or color. All computer equipment for Red Eagle Honor Farm Law Library and all hardware are in the Law Library working to its fullest.

Red Eagle Honor Farm has a fully operational Law Library. This seems to be the extent of the



complaints against me that were filed by Inmate Marshall. I deny all allegations of racism, retaliation, and conspiracy against Inmate Marshall. I have not and will not violate any of Inmate Marshall's well established Constitutional Rights.

Jerry Odom COI
JERRY ODOM

STATE OF ALABAMA:

COUNTY OF MONTGOMERY:

Sworn to and subscribed before me and given under my hand and official seal on this the 7th
day of February, 2007.

Jennifer A. Baker
NOTARY'S SIGNATURE

My Commission expires 8-26-07 (Date)

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA

CARL MARSHALL, #110574

Plaintiff,

vs.

RICHARD ALLEN, et al.,

Defendant

Case No. 2:06-CV-1131-MHT

AFFIDAVIT

Before me, the undersigned authority, a Notary Public in and for the State of Alabama at Large, personally appeared Charles Hadley who being known to me and being by me first duly sworn, deposes and says on oath as follows:

My name is Charles Hadley. I am currently employed with the Alabama Department of Corrections as a Warden II at Red Eagle Honor Farm in Montgomery, Alabama 36110. I am over twenty-one years of age and have personal knowledge of the facts set forth below.

Inmate Carl Marshall was denied his Christmas package in accordance with established guidelines. I have not conspired or retaliated against Inmate Marshall, nor have I violated any of his constitutional rights. Inmate Marshall has never been denied access to courts at Red Eagle Honor Farm. I have not made any decisions based on Inmate Marshall's racial origin. Cleanliness is a top priority at this facility. I am not aware of any illnesses or injuries related to any health or fire code violations.


CHARLES HADLEY

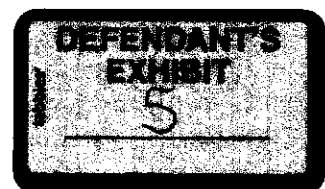
STATE OF ALABAMA:

COUNTY OF MONTGOMERY:

Sworn to and subscribed before me and given under my hand and official seal on this the 15th
day of February, 2007.


NOTARY'S SIGNATURE

My Commission expires 8-26-2007 (Date)



FACILITY: Red Eagle Honor Farm Job Asgmt: ACI - 11 Custody: Min

The above named inmate is cited by COT D. Holmes for the following

Rule #64 violation(s) of Institutional / departmental rule(s) as described: 400 inmate Carl Yauhall B/M 110574 did have in your locker box #62 (1) onion, (1) tattoo motor

(1) small plastic wrap which contained sugar when searched by cot Holmes Since these items are unauthorized (1) onion + (1) tattoo motor and not sold on the store and sugar is not sold on the store wrapped in plastic this

Date of Infraction: 11-29-06 Time of Infraction: 11:27 am

Place you in rule violation # 64 Possession of contraband.

Location of Infraction: Dorm A- Bed #62

COT D. Holmes

Citing Employee / typed name / rank

COT Delia Holmes

Citing Employee's Signature / Date

I have investigated the circumstances surrounding this citation and recommend that the following sanction(s) be taken against this inmate:

- () Counseling/Warning () Loss of Telephone privileges for 30 days
() Loss of Canteen Privileges for 30 days () Removal from Incentive Program
() Loss of Visiting Privileges for days 30 () Removal from Hobby Crafts Program
() Extra duty for days at hours per day under supervision of shift

Inmate REFUSE TO SIGN 30 Nov 06
Inmates Signature / AIS / Date

Shift Supervisor Signature / Date

After having reviewed this citation and the recommendation sanction(s) presented, the following action is approved:

- () Citation and sanctions are approved.
() Citation and sanctions are approved as modified:

() Citation and sanctions are disapproved and formal disciplinary action is to be immediately initiated under the provisions of ADOC AR 403.

() Citation and sanctions are disapproved. Expunge action from inmate's file.

Effective Date of Sanctions

Joseph Wamba 12/5/06
Warden / Designee's Signature / Date

Inmate receipt of completed action:

Inmate Refused to Sign (Lena Shepherd, COT)
Inmate's Signature / AIS / Date

Serving Officer's Initials: LS

Distribution: () Captain () Shift Commander shift () Business Office
() ICS (as required) () Psychologist () Classification () Central Records () File

DEFENDANT'S EXHIBIT

6

STATE OF ALABAMA
DEPARTMENT OF CORRECTIONS

INCIDENT REPORT

1. Institution: Red Eagle Honor Farm		2. Date: 11-29-06		3. Time: 11:20 AM		4. Incident Number: RE-06-571		Class Code: C	
5. Location Where Incident Occurred: Dorm A Bed #62				6. Type of Incident: #64 Possession of Contraband					
7. Time Incident Reported: 11:25 AM				8. Who Received Report: Lt. Edwin Lane <i>Lt Edwin Lane</i>					
9. Victims:									
		Name				AIS			
a.		NA				No.			
b.						No.			
c.						No.			
10. Suspects:									
		Name				AIS			
a.		Carl Marshall		No.		B/110574			
b.		Henry Bailey		No.		B/212529			
c.									
d.									
e.									
f.									
g.									
11. Witnesses:									
		Name				AIS			
a.		NA							
b.									
c.									
d.									
e.									
f.									
g.									
PHYSICAL EVIDENCE:									
12. Type of Evidence									
(1) Onion, (1) wrapped small bag of sugar, (1) tattoo motor									
13. Description of Evidence:									
(1) brown onion, (1) plastic wrapped bag of sugar; approximately 3 ounces, in clear plastic, (1) gray battery powered motor approximately 2 inches long, approximately 1 inch wide.									
14. Chain of Evidence:									
a. Locker Box #62									
b. COI Debra Holmes									
c. Disposed of according to Admin. Reg. 306									
d.									
e.									
15. Narrative Summary:									
<p>On 11-29-06 at approximately 11:20 AM COI D. Holmes, while walking in Dorm-A COI, D. Holmes noticed what appeared to be a cell phone charger plugged into the wall behind Bed #62, which is occupied by Inmate Carl Marshall B/110574. As COI D. Holmes unplugged the charger she noticed that the charger cord was coming from the inside of a sock which was in the jacket pocket, which had laundry ID number 322 marked on the front of the jacket, which was hanging on Bed #61. The jacket was found to belong to Inmate Henry Bailey B/212529. The total contents of the sock revealed to be (1) cell phone (LG), silver and blue in color, (1) blue cell phone case and (1) black cell phone clip. COI D. Holmes advised Lt. Edwin Lane via radio at approximately 11:23 AM to report to A-Dorm. At approximately 11:24 AM Lt. Lane arrived in Dorm-A and was apprised of the cell phone and accessories. Lt. Lane confiscated the cell phone and accessories. Per Lt. Lane Bed #61 and #62 were to be searched. COI D. Holmes began searching Bed #61 where under the mattress (1) bag of sugar, (1) bag of raisins and a small amount of powdered cheese. A search of Box #61 revealed no contraband. COI D. Holmes then began looking behind Bed #62 where she discovered a large brown bag containing (11) small bags of sugar and (1) can of Bartlett pears. Further discovering (2) Kool-aid containers which contained fermented fruit. COI D. Holmes then advanced to Box #62 which was locked. COI D. Holmes radioed Lt. Lane to seek permission to get the pass key to the lock. Per Lt. Lane COI D. Holmes could use the pass key to open Box #62, which is the resident of Carl Marshall B/110574. Upon opening Box #62 COI D. Holmes found (1) onion, (1) tattoo motor and (1) small bag of sugar. At approximately 11:30 AM Lt. Lane, the on-duty supervisor was apprised of the contraband. The contraband will be disposed of according to Admin. Reg. 306. Inmate Carl Marshall will receive a citation for Rule #64 - Possession of Contraband.</p>									

COI D. Holmes
COI D. Holmes

Distribution: ORIGINAL AND ONE (1) COPY to Central I & I Division
COPY to Institutional File

COPY to Deputy Commissioner of Operations (Class A and B ONLY)
COPY to Central Records Office ADOC Form 302-A - June 1, 2005

FEB. 14, 2007 USER: HAZEL HARSEY INMACI
INMATE ACCOUNT INFORMATION FROM OCT. 01, 2006 THRU FEB. 14, 2007

AIS#: 110574 NAME: MARSHALL, CARL CURRENT BAL: \$20.82

DATE OF TRANS.	PREVIOUS BALANCE	TRANS. NUMBER	NAME OF SENDER/PAYEE	TYPE OF TRANS.	TRANS. AMOUNT	AMOUNT DEDUCTED
11/13/2006	\$0.77	000964	D.O.C. INDUSTRY	MISC. DEP	\$3.90	\$0.00
11/13/2006	\$4.67	001007	D.O.C. INDUSTRY	MISC. DEP	\$4.80	\$0.00
11/13/2006	\$9.47	001019	D.O.C. INDUSTRY	MISC. DEP	\$0.90	\$0.00
11/13/2006	\$10.37	001028	D.O.C. INDUSTRY	MISC. DEP	\$8.70	\$0.00
11/13/2006	\$19.07	001053	D.O.C. INDUSTRY	MISC. DEP	\$2.40	\$0.00
11/13/2006	\$21.47	001088	D.O.C. INDUSTRY	MISC. DEP	\$7.20	\$0.00
11/13/2006	\$28.67	001093	D.O.C. INDUSTRY	MISC. DEP	\$12.00	\$0.00
11/13/2006	\$40.67	001105	D.O.C. INDUSTRY	MISC. DEP	\$3.90	\$0.00
11/14/2006	\$44.57	001150	ARTHUR MARSHALL	MISC. DEP	\$110.00	\$0.00
11/15/2006	\$154.57	001510	PMOD ACCOUNT	CANTEEN SL	\$35.91	N/A
11/15/2006	\$118.66	001511	PMOD ACCOUNT	CANTEEN SL	\$22.94	N/A
11/16/2006	\$95.72	001659	PMOD ACCOUNT	CANTEEN SL	\$3.09	N/A
11/27/2006	\$98.81	000211	AMERICAN COMMISSARY	MISC. WDRL	\$81.55	N/A

MORE TRANSACTIONS ON FILE

PRESS ENTER TO CONTINUE

FEB. 14, 2007 USER: HAZEL HARSEY INMACI
INMATE ACCOUNT INFORMATION FROM OCT. 01, 2006 THRU FEB. 14, 2007

AIS#: 110574 NAME: MARSHALL, CARL CURRENT BAL: \$20.82

DATE OF TRANS.	PREVIOUS BALANCE	TRANS. NUMBER	NAME OF SENDER/PAYEE	TYPE OF TRANS.	TRANS. AMOUNT	AMOUNT DEDUCTED
11/29/2006	\$17.26	001817	PMOD ACCOUNT	CANTEEN SL	\$16.78	N/A
12/18/2006	\$0.48	001743	D.O.C. INDUSTRY	MISC. DEP	\$28.20	\$0.00
12/18/2006	\$28.68	001784	D.O.C. INDUSTRY	MISC. DEP	\$4.80	\$0.00
12/18/2006	\$33.48	001789	D.O.C. INDUSTRY	MISC. DEP	\$7.80	\$0.00
12/18/2006	\$41.28	001809	D.O.C. INDUSTRY	MISC. DEP	\$1.80	\$0.00
12/18/2006	\$43.08	001821	D.O.C. INDUSTRY	MISC. DEP	\$0.90	\$0.00
12/18/2006	\$43.98	001844	D.O.C. INDUSTRY	MISC. DEP	\$0.30	\$0.00
12/18/2006	\$44.28	001851	D.O.C. INDUSTRY	MISC. DEP	\$1.20	\$0.00
12/18/2006	\$45.48	001871	D.O.C. INDUSTRY	MISC. DEP	\$0.60	\$0.00
01/04/2007	\$46.08	002878	PMOD ACCOUNT	CANTEEN SL	\$26.03	N/A
01/04/2007	\$20.05	002879	PMOD ACCOUNT	CANTEEN SL	\$13.25	N/A
01/05/2007	\$6.80	002974	PMOD ACCOUNT	CANTEEN SL	\$1.99	N/A
01/10/2007	\$4.81	002320	ARTHUR MARSHALL	MISC. DEP	\$20.00	\$0.00

MORE TRANSACTIONS ON FILE

PRESS ENTER TO CONTINUE

FEB. 14, 2007 USER: HAZEL HARSEY INMACI
INMATE ACCOUNT INFORMATION FROM OCT. 01, 2006 THRU FEB. 14, 2007

AIS#: 110574 NAME: MARSHALL, CARL CURRENT BAL: \$20.82

DATE OF TRANS.	PREVIOUS BALANCE	TRANS. NUMBER	NAME OF SENDER/PAYEE	TYPE OF TRANS.	TRANS. AMOUNT	AMOUNT DEDUCTED
01/10/2007	\$24.81	003094	PMOD ACCOUNT	CANTEEN SL	\$4.98	N/A
01/11/2007	\$19.83	003210	PMOD ACCOUNT	CANTEEN SL	\$19.83	N/A
01/22/2007	\$0.00	002487	D.O.C. INDUSTRY	MISC. DEP	\$2.40	\$0.00
01/22/2007	\$2.40	002504	D.O.C. INDUSTRY	MISC. DEP	\$21.60	\$0.00
01/22/2007	\$24.00	002540	D.O.C. INDUSTRY	MISC. DEP	\$1.20	\$0.00
01/22/2007	\$25.20	002559	D.O.C. INDUSTRY	MISC. DEP	\$13.20	\$0.00
01/25/2007	\$38.40	003533	PMOD ACCOUNT	CANTEEN SL	\$23.93	N/A
01/25/2007	\$14.47	003534	PMOD ACCOUNT	CANTEEN SL	\$4.92	N/A
01/25/2007	\$9.55	003666	PMOD ACCOUNT	CANTEEN SL	\$9.45	N/A
02/07/2007	\$0.10	002933	ARTHUR MARSHALL	MISC. DEP	\$30.00	\$0.00
02/08/2007	\$30.10	004139	PMOD ACCOUNT	CANTEEN SL	\$6.59	N/A
02/08/2007	\$23.51	004143	PMOD ACCOUNT	CANTEEN SL	\$2.69	N/A

END OF DATA ON MARSHALL, CARL

FEB. 14, 2007

USER: HAZEL HARSEY

INMACI

INMATE ACCOUNT INFORMATION FROM OCT. 01, 2006 THRU FEB. 14, 2007

AIS#: 110574 NAME: MARSHALL, CARL CURRENT BAL: \$20.82

DATE OF TRANS.	PREVIOUS BALANCE	TRANS. NUMBER	NAME OF SENDER/PAYEE	TYPE OF TRANS.	TRANS. AMOUNT	AMOUNT DEDUCTED
11/13/2006	\$0.77	000964	D.O.C. INDUSTRY	MISC. DEP	\$3.90	\$0.00
11/13/2006	\$4.67	001007	D.O.C. INDUSTRY	MISC. DEP	\$4.80	\$0.00
11/13/2006	\$9.47	001019	D.O.C. INDUSTRY	MISC. DEP	\$0.90	\$0.00
11/13/2006	\$10.37	001028	D.O.C. INDUSTRY	MISC. DEP	\$8.70	\$0.00
11/13/2006	\$19.07	001053	D.O.C. INDUSTRY	MISC. DEP	\$2.40	\$0.00
11/13/2006	\$21.47	001088	D.O.C. INDUSTRY	MISC. DEP	\$7.20	\$0.00
11/13/2006	\$28.67	001093	D.O.C. INDUSTRY	MISC. DEP	\$12.00	\$0.00
11/13/2006	\$40.67	001105	D.O.C. INDUSTRY	MISC. DEP	\$3.90	\$0.00
11/14/2006	\$44.57	001150	ARTHUR MARSHALL	MISC. DEP	\$110.00	\$0.00
11/15/2006	\$154.57	001510	PMOD ACCOUNT	CANTEEN SL	\$35.91	N/A
11/15/2006	\$118.66	001511	PMOD ACCOUNT	CANTEEN SL	\$22.94	N/A
11/16/2006	\$95.72	001659	PMOD ACCOUNT	CANTEEN SL	\$3.09	N/A
11/27/2006	\$98.81	000211	AMERICAN COMMISSARY	MISC. WDRL	\$81.55	N/A

MORE TRANSACTIONS ON FILE

PRESS ENTER TO CONTINUE

FEB. 14, 2007

USER: HAZEL HARSEY

INMACI

INMATE ACCOUNT INFORMATION FROM OCT. 01, 2006 THRU FEB. 14, 2007

AIS#: 110574 NAME: MARSHALL, CARL CURRENT BAL: \$20.82

DATE OF TRANS.	PREVIOUS BALANCE	TRANS. NUMBER	NAME OF SENDER/PAYEE	TYPE OF TRANS.	TRANS. AMOUNT	AMOUNT DEDUCTED
11/29/2006	\$17.26	001817	PMOD ACCOUNT	CANTEEN SL	\$16.78	N/A
12/18/2006	\$0.48	001743	D.O.C. INDUSTRY	MISC. DEP	\$28.20	\$0.00
12/18/2006	\$28.68	001784	D.O.C. INDUSTRY	MISC. DEP	\$4.80	\$0.00
12/18/2006	\$33.48	001789	D.O.C. INDUSTRY	MISC. DEP	\$7.80	\$0.00
12/18/2006	\$41.28	001809	D.O.C. INDUSTRY	MISC. DEP	\$1.80	\$0.00
12/18/2006	\$43.08	001821	D.O.C. INDUSTRY	MISC. DEP	\$0.90	\$0.00
12/18/2006	\$43.98	001844	D.O.C. INDUSTRY	MISC. DEP	\$0.30	\$0.00
12/18/2006	\$44.28	001851	D.O.C. INDUSTRY	MISC. DEP	\$1.20	\$0.00
12/18/2006	\$45.48	001871	D.O.C. INDUSTRY	MISC. DEP	\$0.60	\$0.00
01/04/2007	\$46.08	002878	PMOD ACCOUNT	CANTEEN SL	\$26.03	N/A
01/04/2007	\$20.05	002879	PMOD ACCOUNT	CANTEEN SL	\$13.25	N/A
01/05/2007	\$6.80	002974	PMOD ACCOUNT	CANTEEN SL	\$1.99	N/A
01/10/2007	\$4.81	002320	ARTHUR MARSHALL	MISC. DEP	\$20.00	\$0.00

MORE TRANSACTIONS ON FILE

PRESS ENTER TO CONTINUE
 FEB. 14, 2007 USER: HAZEL HARSEY INMACI
 INMATE ACCOUNT INFORMATION FROM OCT. 01, 2006 THRU FEB. 14, 2007

AIS#: 110574 NAME: MARSHALL, CARL CURRENT BAL: \$20.82

DATE OF TRANS.	PREVIOUS BALANCE	TRANS. NUMBER	NAME OF SENDER/PAYEE	TYPE OF TRANS.	TRANS. AMOUNT	AMOUNT DEDUCTED
01/10/2007	\$24.81	003094	PMOD ACCOUNT	CANTEEN SL	\$4.98	N/A
01/11/2007	\$19.83	003210	PMOD ACCOUNT	CANTEEN SL	\$19.83	N/A
01/22/2007	\$0.00	002487	D.O.C. INDUSTRY	MISC. DEP	\$2.40	\$0.00
01/22/2007	\$2.40	002504	D.O.C. INDUSTRY	MISC. DEP	\$21.60	\$0.00
01/22/2007	\$24.00	002540	D.O.C. INDUSTRY	MISC. DEP	\$1.20	\$0.00
01/22/2007	\$25.20	002559	D.O.C. INDUSTRY	MISC. DEP	\$13.20	\$0.00
01/25/2007	\$38.40	003533	PMOD ACCOUNT	CANTEEN SL	\$23.93	N/A
01/25/2007	\$14.47	003534	PMOD ACCOUNT	CANTEEN SL	\$4.92	N/A
01/25/2007	\$9.55	003666	PMOD ACCOUNT	CANTEEN SL	\$9.45	N/A
02/07/2007	\$0.10	002933	ARTHUR MARSHALL	MISC. DEP	\$30.00	\$0.00
02/08/2007	\$30.10	004139	PMOD ACCOUNT	CANTEEN SL	\$6.59	N/A
02/08/2007	\$23.51	004143	PMOD ACCOUNT	CANTEEN SL	\$2.69	N/A

END OF DATA ON MARSHALL, CARL

**STATE OF ALABAMA
Red Eagle Honor Farm
1290 Red Eagle Road
Montgomery, Alabama 36110**

STANDARD OPERATING PROCEDURE

OPR: Warden

09 - 05

Emergency Fire Procedures

I. GENERAL

This Alabama Department of Corrections (ADOC) Institutional Standard Operating Procedure (SOP) establishes the responsibilities, policies, and procedures for all employees and inmates at Red Eagle Honor Farm.

II. POLICY

It is the policy of Red Eagle Honor Farm that all employees will be familiar with and follow the procedures set forth in this Standard Operating Procedure.

III. DEFINITION (S) AND ACRONYM (S)

Yellow Fire Alert: The yellow fire alert will be placed in effect when there is a small controllable fire of a non-threatening nature.

Red Fire Alert: The red alert will be placed in effect when there is a major uncontrollable fire that is life threatening.

IV. RESPONSIBILITIES



All employees of Red Eagle Honor Farm are responsible to keep all areas in such a manner that will prevent fires. Any employee discovering a fire is responsible for notifying the shift commander. The shift commander is responsible for evaluating the situation and determines what action needs to be taken. The shift commander is responsible for conducting a fire drill monthly (third shift will conduct a simulated fire drill) and documenting the fire drill on an incident report.

A. Warden:

1. The Warden will be the Official –in-Charge (OIC).
2. The Warden is responsible for overseeing the entire application of the fire plan.
3. The Warden will coordinate all aspects and provisions of the plan and delegate specific responsibilities.
4. The Warden has appointed the Maintenance Supervisor as the Fire Safety Officer.

B. Captain of the Guard:

1. The Captain will assume the role of OIC in the absence of the Warden.
2. The Captain is responsible with all outside agencies, such as County Fire Departments, the Sheriff's office, and other institutional personnel that are assisting.
3. The Captain will coordinate all operations with the command Center and maintain clear and open communication between the security staff engaged in the implementation of the Fire Plan.

C. Shift Commander

1. The Shift Commander is responsible for the overall command of the emergency until the arrival of the Warden or Captain.
2. The Shift Commander is responsible for overseeing the operation and insuring that the proper records and logs are kept.
3. The Shift Commander will be responsible for coordinating the emergency plans and insuring their effectiveness.

V. **PROCEDURES**

A. Shift Commander

1. Upon notification of a fire, the Shift Commander will instruct the appropriate staff member to visually verify the fire and obtain a verbal report to determine the exact size, nature and location of the fire.
2. The Shift Commander will then determine if this plan is to be implemented and declare the appropriate alert level for the fire.
3. The Shift Commander will sound the fire alarm, if necessary, and evacuate the dormitories to the area behind the smoking area and administrative offices to the front parking lot. (See attachments for evacuation routes and meeting areas.). A formal count will be conducted once the evacuation is complete. All personnel and inmates will be accounted for.
4. The Shift Commander will instruct an officer to begin emergency notifications and begin a detail log of events.

5. The Shift Commander will determine if the fire can be extinguished without the assistance of the fire department, if not contact the Montgomery Fire Department Station #8 located on Lower Wetumpka Road at 832-4469 or dial 911.
6. The Shift Commander will notify the Warden, Captain, and Maintenance Supervisor.

B. Officers

1. The Officers will unlock all exit doors and ensure all inmates and personnel exit the buildings.
2. The Officers will notify the Shift Commander when the evacuation is completed.
3. The officers will conduct a count of inmates and inmates will stay grouped by dormitories.
4. An Officer will remain with the inmates to ensure security.
5. The other Officers will report to the Shift Commander for further instructions.

C. Support Personnel:

1. All support personnel will evacuate the building and report to the front parking lot.
2. Support Personnel will evacuate through the side door if possible. The Secondary Route will be to exit through the Shift Office.

D. Maintenance Personnel

1. Maintenance will assist the Shift Commander in interrupting utilities and provide assistance to the Shift Commander as needed.
2. Maintenance will test Fire Equipment monthly, to include fire extinguishers and pressure testing of hoses and turning on of Water Hydrates. Maintenance will document the testing of the equipment on a tag affixed to the equipment.

VI. DISPOSITION

Any forms will be disposed of and/or retained according to the Departmental Records Disposition Authority (RDA).

VII. FORMS

Fire Evacuation Routes
Emergency List of Telephone Numbers

VIII. SUPERCEDES

This Standard Operating Procedure supersedes SOP # 9-05 Dated 5/14/2002 Fire Safety and Weather Alerts and any memorandums to date.

IX. PERFORMANCE

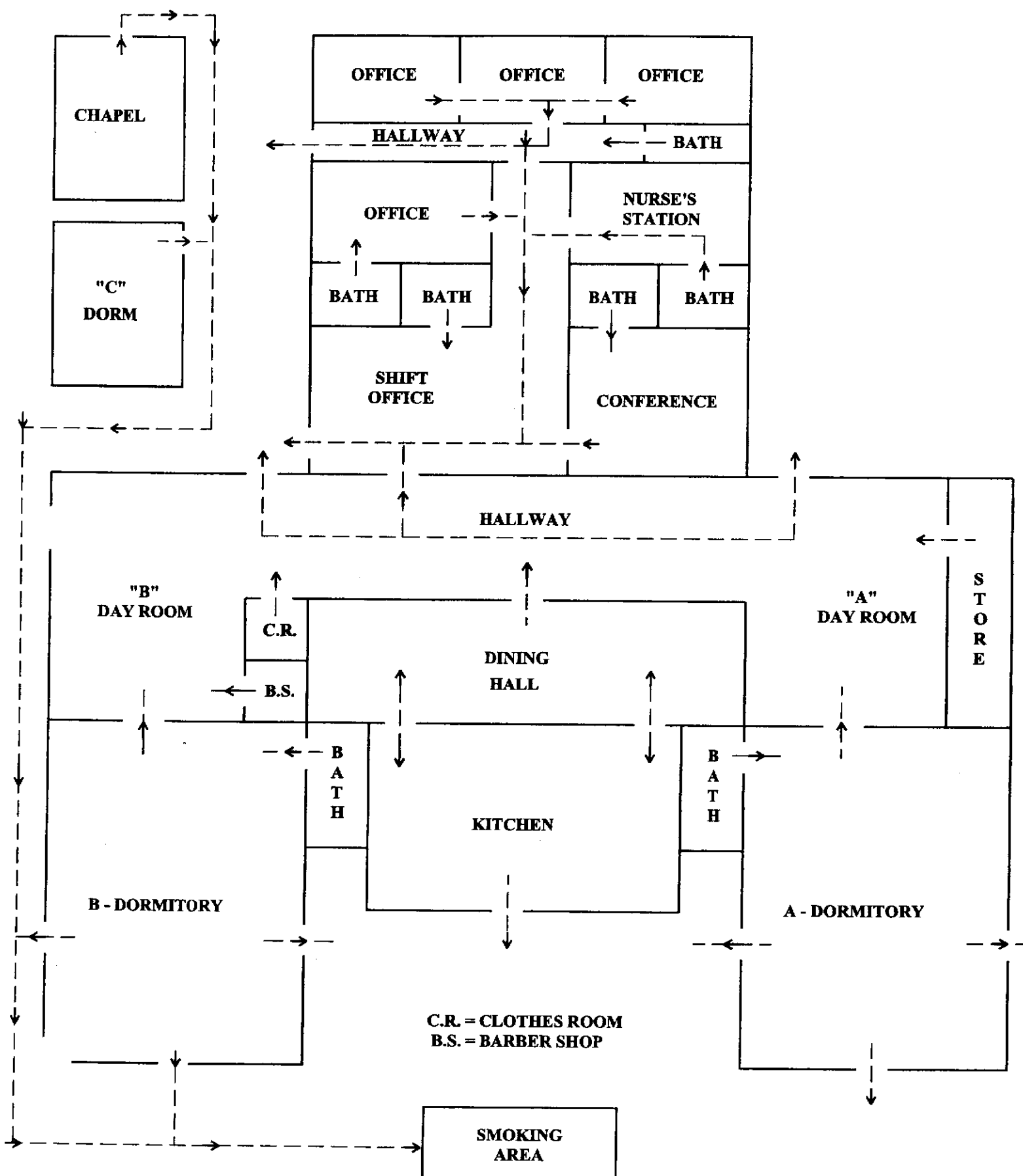
None

9-18-06

Date Completed



C.I. Hadley, Warden
Red Eagle Honor Farm

RED EAGLE HONOR FARM**EVACUATION PLAN**

EMERGENCY TELEPHONE LIST

Alabama Power Company	334-223-5001
Bellsouth	800-247-2020
Black Box (Customer # 106394)	800-766-7687 334-409-5901
Boylston Post Office	334-265-1102
Ferrellgas LP (Propane Gas)	205-516-9224
Martin Damn	205-257-3335 800-525-3711
Montgomery Water Works	334-206-1600
Lagoon Post Office	334-279-3172
Pest Control	334-215-1682
Risk Management	334-223-6133
Southeast Alabama Gas (Natural Gas)	334-382-2643
T-Netix (Inmate Phones)	888-286-3849
Time and Weather	334-323-7000
WAKA Weather	334-242-3252

STATE OF ALABAMA
Red Eagle Honor Farm
1290 Red Eagle Road
Montgomery, Alabama 36110

STANDARD OPERATING PROCEDURE

OPR: Warden

09 - 05

Emergency Fire Procedures

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II. POLICY

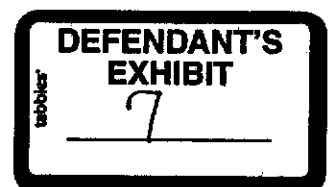
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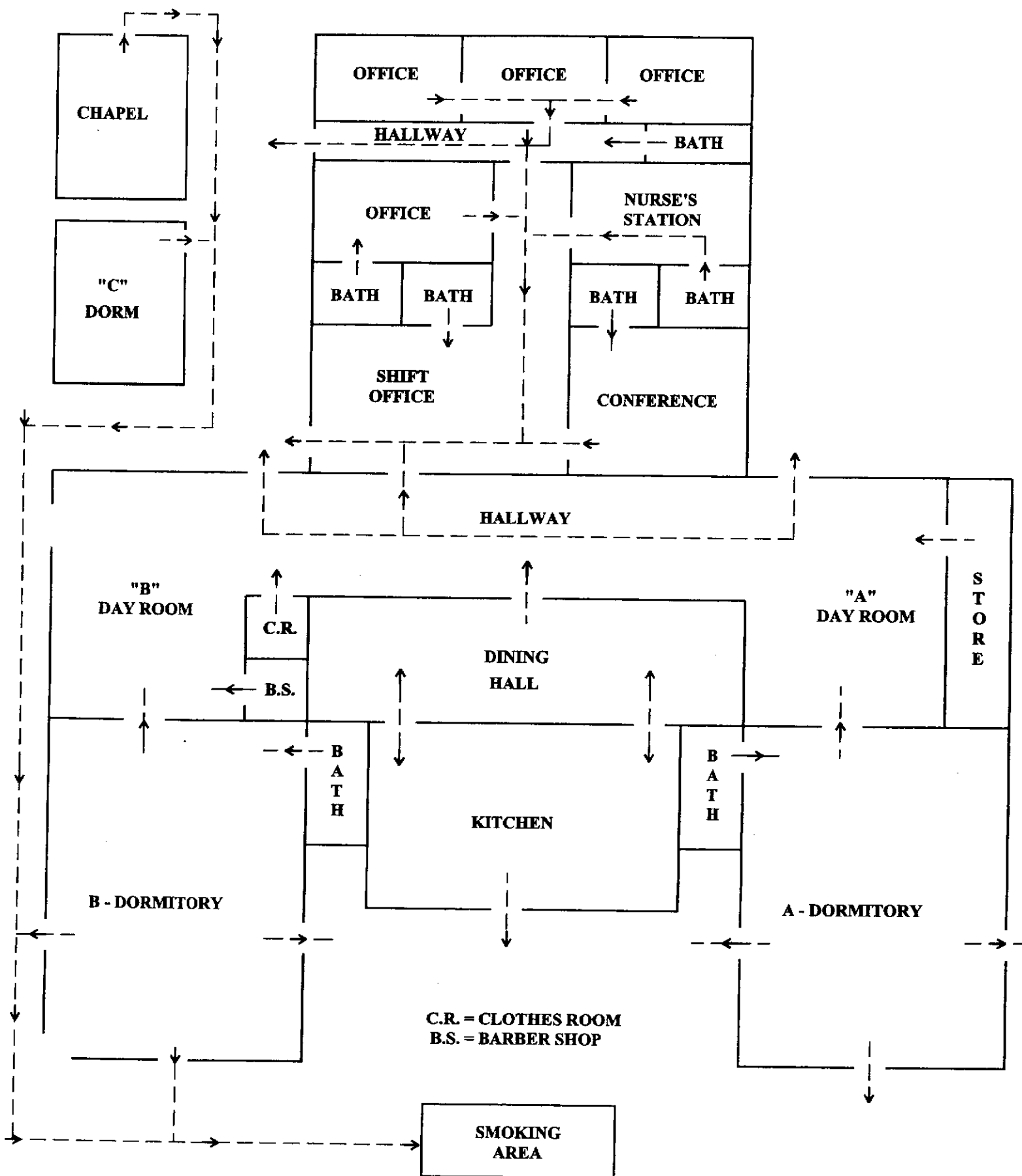
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9-18-06

Date Completed



C.I. Hadley, Warden
Red Eagle Honor Farm

RED EAGLE HONOR FARM**EVACUATION PLAN**

EMERGENCY TELEPHONE LIST

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Time and Weather	334-323-7000
WAKA Weather	334-242-3252



DONAL CAMPBELL
COMMISSIONER



BOB RILEY
GOVERNOR

State of Alabama
Alabama Department of Corrections
301 S. Ripley Street
P. O. Box 301501
Montgomery, AL 36130

February 7, 2005

ADMINISTRATIVE REGULATION
NUMBER 412

OPR: LEGAL

INSTITUTIONAL LAW LIBRARIES

I. GENERAL

This Alabama Department of Corrections (ADOC) Administrative Regulation (AR) establishes responsibilities, policies, and procedures for institutional law libraries.

II. POLICY

It is the policy of the ADOC to provide legal resource libraries and to permit all inmates access to the materials available.

III. DEFINITION(S) AND ACRONYM(S)

CD: Compact Disk

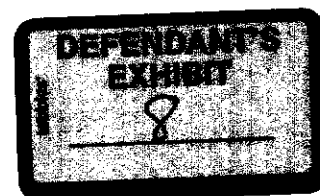
IV. RESPONSIBILITIES

Wardens/designees are responsible for the operation and maintenance of institutional law libraries.

V. PROCEDURES

A. Destruction of or damage to law library books, CDs or materials.

1. Any general population inmate who has been found guilty of violating Administrative Regulation 403, Disciplinary Hearing Procedures for Major Rule Violations, Rule #69 (destruction or damaging state Property) that involves the destruction or damaging of law library books, CDs or other materials, may be denied physical access to the law library for up to 30 days. During the time that physical access to the law library is denied, the inmate will be permitted to request and receive the same law library privileges as are afforded inmates confined to segregation.



2. If an inmate confined to segregation fails or refuses to return checked-out Law library books or materials upon demand, correctional staff may enter that inmate's cell in order to retrieve the law library books or material.
3. The institutional law library supervisor will document each incident of theft, damage, destruction or refusals to return law library books or materials.

B. Missing books, pages, materials.

In the event that an inmate discovers that a book(s), or page(s) of a book, or other materials, are missing from the law library that are necessary to the inmate's legal research, the inmate should report this to the institutional law library supervisor by submitting Form N944L i, "Access to Legal Material".

VI. DISPOSITION

Any documents will be retained or disposed of according to the Departmental Records Disposition Authority (RDA).

VII. FORMS

Form N944L i – Access to Legal Material (Refer to AR 214)

VIII. SUPERCEDES

This Administrative Regulation supercedes AR 412 dated August 18, 1992.

IX. PERFORMANCE

- A. Administrative Regulation 214. "Law Library Supervisors"
- B. Administrative Regulation 403, "Disciplinary Hearing Procedures for Major Rule Violations."


Donal Campbell, Commissioner



BOB RILEY
GOVERNOR

State of Alabama
Alabama Department of Corrections

301 S. Ripley Street
P. O. Box 301501
Montgomery, AL 36130



DONAL CAMPBELL
COMMISSIONER

December 19, 2005

ADMINISTRATIVE REGULATION
NUMBER 448

OPR: OPERATIONS

INMATE MAIL

I. GENERAL

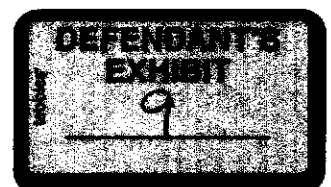
This Alabama Department of Corrections (ADOC) Administrative Regulation (AR) establishes responsibilities, policies, and procedures for inmate mail.

II. POLICY

It is the policy of the ADOC to allow inmate mail in accordance with the U.S. Postal Service regulations and the guidelines set forth in this regulation.

III. DEFINITIONS

- A. Contraband: Any item that is not permitted by law or is either prohibited or not specifically authorized by ADOC or institutional policy. Items not issued by the ADOC, not sold on the institutional canteen, or not specifically authorized by the Warden.
- B. Correspondence: Written communication to or from inmates (e.g., letters, post cards, greeting cards) delivered by a postal service.
- C. Inmate Personal Property: The items and amounts of clothing, equipment, mail, or supplies, which an inmate is allowed to have in his/her immediate possession.
- D. Mail: For the purpose of this regulation, the term "mail" includes but is not limited to: items delivered by the U.S. Postal Service, inter-institutional mail, and any private carrier servicing the ADOC.
- E. Mail Clerk: Staff member(s) assigned to the institutional mailroom.
- F. Printed Materials: Books, publications, magazines, newspapers, periodicals, circulars, and catalogues delivered by the postal services.
- G. Legal Mail: Letters to and from attorneys, courts, judges, clerks, and other officials of the courts and governmental agencies.



- H. Reasonable Suspicion: Rational inference that a reasonably prudent person could make from specific objective facts.
- I. Internet Materials: Downloaded copy from a web site.
- J. Religious Materials: Books, pamphlets, brochures, and religious study courses.
- K. Nudity: A pictorial depiction where genitalia or female breasts are exposed. Publications containing nudity illustrative of medical, educational, or anthropological content may be excluded from this definition.
- L. Sexually Explicit: A picture/illustration of actual or simulated sexual intercourse, and/or oral sex, masturbation, or materials depicting sex.

IV. RESPONSIBILITIES

- A. The Warden shall be responsible for developing their institution/division Standard Operating Procedure (SOP) in accordance with AR 448, *Inmate Mail*.
- B. The Mail Clerk is responsible for the collection, inspection, and distribution of incoming/outgoing mail and for the maintenance of the mailroom records.
- C. The Chaplain or the Warden's designee is responsible for reviewing all mail entering the institution for an inmate that has been marked in care of the chaplain as it refers to religious materials.

V. PROCEDURES

- A. General Guidelines
 - 1. The inmates shall be permitted to send and receive correspondence unless it can be determined that such correspondence may present a threat to the safety and security of the public, staff, inmates, and institution.
 - 2. There is no limit on the volume of letters the inmate can send or receive, or on the language, content, or source of mail except when there is reasonable belief that limitation is necessary to protect the public safety or maintain institutional order.
 - 3. The Warden shall designate a secure mail area and drop boxes for outgoing mail accessible to all inmates.
 - 4. Mail between inmates, whether state, county, city, out-of-state or federal may be allowed with the permission of the Wardens involved. It must be shown that there is a close personal relationship (immediate family) between such inmates.

5. Mail and packages addressed to an inmate, who has been transferred or released to another known address, should be mailed to the inmate within 48 hours, excluding weekends and holidays.
 - a. If a forwarding address is not available, such mail and packages shall be returned to the sender.
 - b. If neither a forwarding or return address is available, the mail shall be returned to the post office.
6. All inmate mail shall remain under the supervision of staff until it is distributed. Inmates are not allowed in the mail area without supervision.
7. At no time shall mail be distributed or handled by an inmate or be accessible to any inmate other than the addressee.
8. A staff person shall deliver incoming mail to the inmate(s) to whom it is addressed.

B. Incoming Mail

1. All incoming mail must be addressed so as to specify the inmate's name, inmate AIS number, and location within the institution.
2. An inmate who has legally changed their name and chooses to use the legal name, then dual names are required in the following format: Commitment Name, AIS # XXXXXX, Legal Name. (See AR 450, *Legal Name Changes*)
3. Promotional checks will not be accepted through the mail for deposit to inmate accounts.
4. Correspondence, printed material, inmate personal property, or money will not be hand delivered to inmates by visitors. The Warden/designee may allow attorneys to hand deliver "Legal Mail" directly to the inmate, subject to being searched for contraband.
5. Inmate will not receive mail stamped "Collect on Delivery (COD)."

C. Outgoing Mail

1. All mail being sent from the institution must have a return address which will include: inmate's full name, inmate AIS number, name of institution, dorm/cell number, street address or P. O. Box number as appropriate, city, state, and zip code. Additionally, the following stamped disclaimer will be included on every piece of outgoing mail sent by inmates.

“This correspondence is forwarded from Alabama State Prison. The contents have not been evaluated, and the ADOC is not responsible for the substance or content of the enclosed communication.”

2. An inmate who has legally changed their name and chooses to use the legal name, then dual names are required in the following format: Commitment Name, AIS # XXXXXX, Legal Name. (See AR 450, *Legal Name Changes*)
3. Designated staff should collect outgoing mail once each business day.

D. Legal Mail

1. Outgoing
 - a. Inmates will be provided two (2) free stamps per week for **legal mail** only.
 - b. Each Warden shall designate a box for “Legal Mail.”
2. Incoming
 - a. A bound ledger shall be maintained by mailroom staff that lists each piece of legal mail received, the date inspected, delivered, and recipient’s signature.
 - b. The inmate will sign for all “Legal Mail” prior to receipt.
 - c. All “Legal Mail” will be opened and inspected in the presence of the inmate.

E. Limitations

1. When abuses are found, the Warden may prohibit further correspondence by the inmate with the person to whom the offending material was directed.
2. When the Warden receives a request to terminate correspondence with an inmate, the Warden shall notify the inmate of the request and inform the inmate that further correspondence with the individual shall cease.
3. The Warden/designee will provide documentation that will be placed in the mail area and in the inmate’s institutional file of persons with whom the inmate may no longer correspond.

F. Inspection

1. Incoming mail, including "Legal Mail", shall be inspected for contraband and/or for abuse of the mail privilege. Outgoing mail may be inspected for contraband.
2. All contraband will be disposed of in accordance with AR 306, *Contraband and Evidence Management*.
3. Every effort should be made to ensure that all incoming letters and packages are delivered within 72 hours after receipt at the institution, other than weekends and holidays. Inmates will be notified of rejected mail in accordance with procedures contained in V.G.

G. Rejection

1. In the event any incoming mail is rejected, the mail clerk will cite the policy violation and complete an ADOC Form 448, *Notification of Rejected Mail*, then forward to the inmate in a timely manner.
2. An inmate may appeal the rejection to the Warden/designee for review and final determination. (Refer to ADOC Form 448, *Notification of Rejected Mail*).
3. If the appeal is denied, the inmate will have the option of returning the mail to the sender at his/her own expense within 30 days, or the property will be destroyed at the end of the 30-day period.
4. Incoming mail may be determined to be a threat to the security of the institution and returned to the sender if, in the opinion of the Warden, it could reasonably be considered to:
 - a. Be an attempt to incite violence based on race, religion, sex, creed, or nationality.
 - b. Advocate, facilitate, or otherwise present a risk of lawlessness, violence, anarchy, and rebellion against government authority.
 - c. Be an attempt to incite disobedience toward law enforcement officials or correctional staff.
 - d. Be an attempt to give instructions for the manufacturing or use of intoxicants, weapons, explosives, drugs, drug paraphernalia, or other unlawful items or substance.
 - e. Contain obscene photographs, pictures, or drawings, including publications and advertisements from distributors.

- f. Contain plans to escape, unauthorized entry into the institution, or information or maps, which might aid an escape attempt.
 - g. Contain information relating to security threat group activity or use of codes and/or symbols associated with security threat groups.
 - h. Contain materials specifically found to be detrimental to inmate rehabilitation because it could encourage deviate criminal sexual behaviors.
 - i. Publications that contain, nudity, graphic depictions of homosexuality, sadomasochism, bestiality, incest, or sex with children will be denied.
 - j. Publications that primarily cover the activities of any sexual or political rights groups or organizations will normally be admitted.
 - k. Before delivery of a publication may be denied, the Warden/designee must review the particular publication in question and make a specific, factual determination that the publication is detrimental to prisoner rehabilitation because it would encourage deviate, criminal sexual behavior. It is not necessary to find that the particular recipient is likely to personally engage in such behavior before delivery can be denied.
5. Abuse of mail privileges by inmates may result in rejection and possible disciplinary action. Abuses included but are not limited to the following:
- a. The writing of letters containing obscene, profane, or indecent language.
 - b. Writings that contain threats, derogatory or personal attack against any person.
 - c. Writings that contain an escape plot or any other clear threats to the institution.
 - d. Receipt of mail, identified as legal mail, from any individual or agency not meeting the legal mail definition.
 - e. Writing which contain language purporting to solicit, claim, or demand money, goods, or services by false statements, threats, intimidation or extortion from another person or firm is prohibited.
 - f. Any written material in outgoing or incoming mail not specifically intended for the addressee identified on the exterior of the

envelope, i.e. sending mail with contents addressed to another party for forwarding which constitutes mail kiting.

H. Publications/Books

1. Inmates may receive no more than two books per month and four magazines or newspapers or a combination thereof. (Refer to AR 338, *Inmate Property*, for the number of items an inmate may have in his/her possession at one time.)
2. The publications should be received directly from the publisher or a recognized commercial distributor and be pre-paid from a family member or friend or from the inmate's Prisoners Money on Deposit Account (PMOD).
3. Receipt of publications by inmates in segregation will be determined by provision indicated in AR 433, *Administrative Segregation and Housing for Close or Maximum Custody*, and AR 434, *Disciplinary Segregation*.
4. Each Warden/designee shall personally inspect each issue of a publication when a reasonable expectation that the particular issue violates the standards of this regulation. If they determine that the issue of the publication violates these standards then they will temporarily exclude the publication.
5. The Warden/designee shall notify the inmate to whom the publication was addressed of the temporary ban.
6. If the inmate appeals the temporary ban, it will remain in effect pending a final resolution. Upon notice of the appeal, the Warden will furnish a copy of the documentation on the matter to the Commissioner/designee. This documentation will include copies of pages of the excluded issue that contain material that has been identified as violating the restrictions.
7. The Commissioner/designee will review the action taken by the institution to exclude that issue and either confirm or deny them. If the temporary ban is confirmed, the inmate, the Warden, and all other institutions will be notified, the issue is permanently banned, and the matter closed. The documentation supporting the ban will be retained by the Legal Division and at the institution.
8. If the temporary ban is denied, the publication will be given to the inmate and the entire matter dropped and all documentation destroyed.
9. The permanent ban of an issue of a publication may not be relied upon to support an exclusion of a subsequent issue. For example, if the January issue of XYZ magazine is permanently banned, this ban may not be used

to justify an exclusion of the February issue of XYZ magazine. Each separate issue must be evaluated independently in accordance with this regulation.

10. Inmates will not be allowed to be members of, enter into contractual agreements with, or participate in book clubs.

I. Packages

1. All religious materials such as books, pamphlets, brochures, and religious study courses shall be sent to the inmate in care of the Chaplain, and will be distributed by the Chaplain after approval and limits have been obtained from the Warden.
2. Authorized inmates will be allowed to purchase, from their PMOD accounts, arts and craft items through approved reputable suppliers.
3. Prior to Christmas, the Commissioner will publish instructions concerning the receipt of Christmas packages for inmates.
4. Criteria for an inmate to receive Christmas packages are as follows:
 - a. Inmates must have a four (4) month clear record prior to November 1st – no disciplinaries or behavior citations.
 - b. Inmates who receives one (1) formal or informal disciplinary in the months of November and December will not be eligible to receive a package.
 - c. Inmates found guilty of rules violations for indecent exposure/exhibitionism, assaults on staff, or other acts of violence of a serious nature will be restricted from receiving packages one year from the incident.
5. Incentive Packages will be accepted beginning May and September for one package per inmate from a person on the inmate's visitation/funds list. Packages postmarked after May 31 and September 30 will be returned to the sender C.O.D. Inmates must submit a request for an incentive package to the Warden/designee.
6. Criteria for an inmate to receive an incentive package are as follows:
 - a. Inmate must have six-month clear record-no disciplinaries or behavior citations.
 - b. Inmates found guilty of rules violations for indecent exposure/exhibitionism, assaults on staff, or other acts of violence

of a serious nature will be restricted from receiving packages one year from the incident.

- c. Inmate should have two positive counselors/work reports within the six-month period preceding the package.
- 7. An inmate may mail outgoing packages. However, these packages will be inspected for unauthorized items prior to dispatch. The sender-inmate must provide postage and wrapping materials.
- 8. The Commissioner/designee may allow other packages as deemed appropriate.

VI. DISPOSITION

Any forms used will be disposed of and retained according to the Departmental Records Disposition Authority (RDA).

VII. FORMS

ADOC Form 448 – Notification of Rejected Mail

VIII. SUPERCEDES

This regulation formally included in Administrative Regulation 303, dated May 30, 2000.

IX. PERFORMANCE

ACA standards for Adult Correctional Institutions, fourth edition: 4-4487; 4-4490; 4-4491; 4-4492; 4-4494; 4-4496



Donal Campbell, Commissioner

STATE OF ALABAMA
DEPARTMENT OF CORRECTIONS

Notification of Rejected Mail

From: _____ Date: _____
Institutional Mail Room

To: Inmate _____ AIS#: _____

Cell/Dorm: _____ Bed #: _____

Correspondence From: _____

Date received at this Institution: _____

Is being returned to sender due to the following reason(s): _____

The inmate has the option to return mail to sender at his/her own expense within thirty (30) days or the property will be destroyed.

The inmate has seventy-two (72) hours from the above date to appeal this return. State your reason(s) for appealing in writing below and return this form to the Warden/designee:

Inmate Signature

/ _____
AIS#

Date

Appeal/Denied

Printed Name

Authorized Signature

Date returned to sender

Appeal/Upheld

Printed Name

Authorized Signature

Date returned to inmate

ADOC Form 448 – December 19, 2005

Womble, Joseph (DOC)

From: Bohannon, Susan (DOC)
Sent: Thursday, October 19, 2006 12:06 PM
To: DOC -- #Warden Secretary; DOC -- #Wardens; DOC -- #WR Wardens; DOC -- #WR Wardens Secretary
Subject: Christmas Package Criteria

Only the inmates meeting the Christmas package criteria established in Admin. Reg. 448 will be eligible to receive a Christmas package.

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Womble, Joseph (DOC)

From: Womble, Joseph (DOC)
Sent: Wednesday, December 13, 2006 2:59 PM
To: 'Misty Fraser'
Subject: FW: Read: Mistake about the verification list.

Misty,
Inmates Wright, Guthrie, Bolden, Marshall and Powell do not meet the criteria to receive their package. What do I need to do with these packages?
Inmate Ladd transferred to another facility, I will forward this package to them.
Thanks, Joseph Womble

From: Womble, Joseph (DOC)
Sent: Friday, December 08, 2006 2:13 PM
To: 'Misty Fraser'
Subject: RE: Read: Mistake about the verification list.

I have received and verified my list. I have 6 changes.

Order #	Inmate Name	AIS #	Facility Code	
672	Willie Lewis Wright	209612	10	Can Not Receive
1435	Brian Guthrie	157451	8	Can Not Receive
1472	Kevin Bolden	243343	10	Can Not Receive
1763	Brain Ladd	220267	69	
6203	Carl Marshal	110574	10	Can Not Receive
6638	Leroy Powell	227738	10	Can Not Receive

Is this all I need to do, please advise.

Notes:

Inmate Ladd was transferred from Red Eagle to Elmore.

Inmate Guthrie was transferred to Kilby pending disciplinary action.

Joseph Womble
Red Eagle Honor Farm

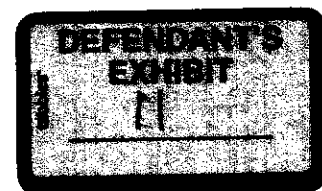
From: Misty Fraser [mailto:mfraser@acs-us.com]
Sent: Friday, December 08, 2006 10:39 AM
To: Womble, Joseph (DOC)
Subject: Read: Mistake about the verification list.

Your message

To: Misty Fraser
Subject: RE: Mistake about the verification list.
Sent: 12/8/2006 10:26 AM

was read on 12/8/2006 10:38 AM.

12/14/2006



ALABAMA DEPARTMENT OF PUBLIC HEALTH

FOOD ESTABLISHMENT / RETAIL FOOD STORE INSPECTION REPORT

Case: 16-0001 Document: 2673 Filed: 07/09/2007 Page 1 of 1

COUNTY HEALTH DEPARTMENT

SCORE 96

LEGAL NOTICE TO THE PROPRIETOR OR MANAGER: You are respectfully notified of such violations of the Alabama State Board of Health Rules for Food Establishment Sanitation as are indicated by a circle in the Inspection Report. This report constitutes an official notice to comply with Chapter 420-3-22 of the aforesaid Rules within a period of 10 days. Failure to comply with this notice may result in cessation of food service food store operations.

ESTABLISHMENT NAME Red Eagle Honor Farm OWNER OR MANAGER NAME State of Alabama

ADDRESS 1290 Red Eagle Road Montgomery, AL 36110- Date Prev Insp 03/31/05

PERMIT NUMBER	MO.	DAY	YEAR	INSP. TIME	PERMITTED	PRIORITY CAT.	COMPLIANCE VISIT/ INSP. REQUIRED	NO. OF
	<u>04</u>	<u>10</u>	<u>06</u>	OUT <input type="checkbox"/> IN <input type="checkbox"/>	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	<u>01</u>	YES <input type="checkbox"/> NO <input type="checkbox"/>	<u>1</u>

MANAGEMENT AND PERSONNEL

01*	Assignment of Person in Charge; Commissioned. Personnel with infections restricted, excluded. No discharges from eyes, nose, mouth.	5
02*	Hands clean; properly washed. No bare hand contact; approved alternative. No eating, drinking, tobacco use.	5
03*	Demonstration of knowledge: Approved course, other requirements met.	+2
04	Clean clothes; Hair restraints; No unauthorized personnel. Other.	5

05*	Safe; Source; Condition; Not adulterated; Shellstock tags; Compliance with plan/ROP. Other.	5
06*	Potentially hazardous food meeting temperature requirements during receiving, cooking, hot holding, cooling. Pasteurized eggs used if required.	5
07*	Potentially hazardous food meeting temperature requirements during cold holding. Time as a public health control. Consumer Advisory used if required.	5
08*	Food separated, protected from contamination. Tasting. Returned, reservice of food.	5
09	Cooling methods. Facilities to maintain product temperature. Plant food cooking.	1
10	Properly labeled; Original container. Records. Code date limits.	1
11	Thermometers provided, accurate, conspicuous.	1
12	Approved thawing methods used.	1
13	Food contamination prevented during storage, preparation, display, handling, other. <u>use deep for flow, red</u>	1
14	In use, between use, food/dice dispensing utensils properly stored.	1

15*	Equipment; food contact surfaces (non-cooking) clean; sanitized. Sanitization temperature, concentration, time.	5
16*	Food contact surfaces characteristics. Single service/use used when required.	4
17	Cooking surfaces, non-food contact surfaces: clean. Frequency; Methods.	1
18	Food (ice), Non-food contact surfaces: constructed, cleanable, installed, located.	1
19	Warewashing facilities: designed, constructed, maintained, installed, located, operated. Accurate thermometers, Chemical test papers.	1
20	Linens properly stored, dried, handled. Laundering facilities used.	1
21	Wiping cloths: clean, use limitations.	1
22	Storage, handling, drying equipment, utensils. <u>use netting</u>	1
23	Single service articles, storage, dispensing, wrapped, Use limitations. Gloves used properly.	1

WATER, PLUMBING, AND WASTE

24*	Water: Source; Quality; Capacity; System; Approved.	4
25*	Sewage, grease disposal: System approved: Flushed (mobile).	4
26*	Cross connection: Back siphonage: Backflow.	4
27*	Handwashing facilities: Toilets: Number, location.	4
28	Water supply, Waste disposal: Approved system (fixtures), materials, design, operation; maintenance. Other liquid wastes properly disposed. Service sink provided.	1
29	Handwashing facilities: Soap, towels/drying device, use restrictions.	2
30	Rest rooms constructed, supplied.	1
31	Refuse, recyclables, and returnables. Outdoor/indoor storage area approved. Receptacles provided; covered. Approved refuse disposal method.	1

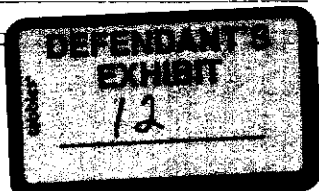
32*	Food contamination prevention equipment prevented.	4
33*	Presence of insects, rodents, other pests. Animals prohibited.	4
34	Pests control methods approved/used. Pest control devices serviced as required.	1
35	Pests: Free of litter, harborage.	1
36	Flies, walls, ceilings, attached equipment: clean. Door openings protected. <u>dishwash area</u>	1
37	Surface characteristics, interior, outdoor: Maintained. Cleaning frequency, dusting methods. Absorbent floor material properly used.	1
38	Lighting, Ventilation adequate. Ventilation system (filters), clean, operated. Lights shielded. Dressing rooms provided.	1
39	Designated areas properly located. Living/sleeping quarters separation. Cleaning, maintenance tools properly stored.	1

40*	Poisonous items; Medicines; First aid materials: Stored; Labeled; Used.	4
41	Other personal care/first aid items: Stored; Labeled. Toxic or poisonous materials separation; Non-toxic tracking powder.	1

42	Permit, Report, Other properly posted. Administrative requirements, HACCP plan.	1
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RECEIVED BY: Name Jimatt Raine INSPECTED BY: Name Cindy Goocher
 Title State Rep II

REMARKS Cindy Goocher



ALABAMA DEPARTMENT OF PUBLIC HEALTH

DETENTION FACILITY INSPECTION REPORT

Donald E. Williamson, MD
State Health Officer

Montgomery County

NOTICE: The deficiencies noted should be addressed as soon as possible. The recommendations to correct the noted deficiencies are based upon Alabama Department of Public Health "Guidelines for the Inspection of Prisons and

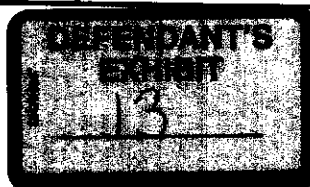
Facility Name: Red Eagle Honor Farm
Director: State Of Alabama
Address: 1290 Red Eagle Road, Montgomery, AL 36110-

Date	Insp. Time	Design Capacity	Population	Telephone Number	Purpose
04/10/06	Out In	308	267	242-2510	<input checked="" type="checkbox"/> Regular <input type="checkbox"/> Other <input type="checkbox"/> Compliance

Description	Non-Compliance? (X)	Comments
01 Water: source, approved; Public (✓) Private () Hot and cold water under pressure; Drinking water provided		
02 Sewage: Sewage and waste water disposal Public () Private (✓)		
03 Plumbing: Installed, maintained; Cross connections, back siphonage, backflow		
04 Toilet, Hand Washing, Bathing Facilities: Adequate number, convenient, designed, installed Good repair, clean; Hand cleaner, tissue, towels provided		
05 Solid Waste: Containers, adequate number, clean covered; Outside storage area clean, properly constructed		
06 Vermin Control: Presence of insects, rodents Outer openings protected		
07 Floors, Walls, Ceilings: Floors, constructed, drained, clean, good repair; Walls and Ceilings, good repair, clean	X	Paint peeling - A
08 Lighting: Adequate, provided as required		
09 Heating/Ventilation: Room temperature maintained Room and equipment vented as required		
10 Laundry: Clean, soiled clothing, linen properly stored Clean and good repair; Equipment, good repair, maintained	X	laundry carts
11 Clothing: Provided, regular changes, clean		
12 Bedding: Clean linen provided Mattresses, etc., in good repair, storage pillow, mattresses	X	A & B

Areas Visited: _____

Inspected By: Cindy Goocher
Signature: Cindy Goocher
Accompanied By: Warden Hadley
Signature: _____
Received By: Warden Hadley
Title: _____
Signature: [Signature]





BOB RILEY
GOVERNOR

**STATE OF ALABAMA
DEPARTMENT OF INSURANCE**

State Fire Marshals Office
201 Monroe Street, Suite 1778
Post Office Box 303352
Montgomery, Alabama 36130-3352
Telephone: (334) 241-4166
Facsimile: (334) 241-4158
Email firemarshal@insurance.state.al.us
Website www.aldoi.org

Walter A. Bell
Commissioner

State Fire Marshal
Edward S. Paulk

INSPECTION REPORT

DATE OF REPORT : February 23, 2007

DATE OF INSPECTION : February 23, 2007

NAME OF FACILITY : Red Eagle Honor Farm

STREET ADDRESS : 1290 Red Eagle Road
Montgomery, AL 36110

OWNER : Alabama Department of Corrections

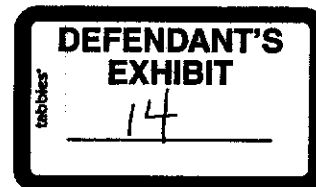
COMMISSIONER : Richard Allen
301 S. Ripley Street
P.O. Box 301501
Montgomery, AL. 36130-1501

COUNTY : Montgomery (3)

Deputy State Fire Marshal Jeffrey H. Thompson conducted an inspection of Red Eagle Honor Farm on **February 23, 2007**. The inspection of this facility was conducted at the direction of State Fire Marshal Ed Paulk due to receiving a complaint filed in writing by an inmate stating that fire code violations exist through out.

Corrections Maintenance Supervisor assisted this deputy during the inspection. The use condition for this facility is Use Condition I Free Egress and was opened in 1972. At the time of this inspection the inmate population consisted of **335** male inmates. According to capacity of correctional facilities Maintenance Man **340** is maximum capacity.

The facility fire extinguishers were last serviced in May 2006 by Brendle Fire Equipment. Monthly visual inspections are being conducted with documentation on a tag stating month and initial of inspector. The kitchen hood extinguishing system (**Wet Chemical new 1990**) last inspection was conducted by Fire Tech in December 2006. A hydrostatic test was conducted two weeks after noted inspection. There is not a **K** fire extinguisher located in the kitchen.



The Chapel has an occupant seating capacity of 121. The existing water tower is no longer in service and the campus has fire hydrants with just under the required water main size of 6 inches with 4 inch mains.

During the inspection of the **Detention Facility** the following deficiencies were noted:

1. **Dorm C** has an improper landing at one of its exits.

Note: NFPA 101 2003 Edition section 7.2.1.3.6 In existing buildings, a door at the top of a stair shall be permitted to open directly at a stair, provided that the door does not swing over the stair and that the door serves an area with an occupant load of fewer than 50 persons.

***** Landing was built 3/5/2007**

2. Records of employee training shall be kept on fire extinguisher and other manual fire suppression equipment.

Note: NFPA 101 2003 Edition Chapter 23 section 23.7.1.4 - 23.7.4.2 states: Employees of detention and correctional occupancies shall be instructed in the proper use of portable fire extinguishers and other manual fire suppression equipment. Such training shall be provided to new staff promptly upon commencement of duty. Refresher training shall be provided to existing staff at not less than annual intervals.

***** Policy is being written to train employees**

3. Emergency lighting required in Chapel area and exit access corridor.

***** Repaired 2/27/2007**

4. Fuel dispensing area had a leak causing product to escape into the containment area with some product being drained outside containment to the ground.

Note: According to the maintenance supervisor of the mechanic shop they had to replace a coupling where the tank connects to the dispensing unit

***** Repaired 2/23/2007**

5. Emergency light damaged at entrance to dorm B.

***** Repaired 2/26/2007**

6. Smoke detector missing in Dorm B.

Note: Check manufactures recommendation on proper coverage of smoke detector.

***** Repaired 3/1/2007**

7. Emergency light in dorm A did not function on test mode. Possible dead battery. Also the emergency light that is tied into the emergency generator is broken.

***** Repaired 2/27/2007**

8. Receptacle outlet in the visitation building that provides power for the drink machine needs to be reset in the wall.

***** Repaired 2/23/2007**

9. There were no deficiencies noted this date in the maintenance and wood working shops.

10. There are new HVAC units in Dorm A & B.

11. The kitchen area has seating capable to sit 74 but there is only one exit out of this area and the door swings against travel.

Note: A safe number to be placed in this area at one time would be 49 people only. You can not use the exit through the kitchen as a secondary exit because it is classified as a hazardous area.

***** Estimates are being prepared to install another exit door.**

12. A **K** fire extinguisher is required to be in place to be compatible with the wet extinguishing system installed to protect the cooking appliances.

***** Installed K fire Extinguisher 3/2/2007**

13. The proper way to clean the duct system in the kitchen is to have it steamed from the fan down.

Note: Only filters and locations that can be easily wiped down have been cleaned.

***** Chief Steward is preparing cleaning schedule with Maintenance Supervisor.**

14. Emergency light appliances noted throughout correction facility not tested per code.

Note: NFPA 101 2003 Edition Chapter 7 section 7.9.3 states: Periodic Testing of Emergency Lighting Equipment. Section 7.9.3.1 required emergency lighting systems shall be tested in accordance with one of the three options offered by 7.9.3.1.1, 7.9.3.1.2, or 7.9.3.1.3. 7.9.3.1.1 Testing of required emergency lighting systems shall be permitted to be conducted as follows:

- (1) Functional testing shall be conducted at 30-day intervals for not less than 30 seconds.
- (2) Functional testing shall be conducted annually for not less than 1½ hours if the emergency lighting system is battery powered.
- (3) The emergency lighting equipment shall be fully operational for the duration of the tests required by 7.9.3.1.1(1) and 7.9.3.1.1(2).
- (4) Written records of visual inspections and tests shall be kept by the owner for inspection by the authority having jurisdiction.

***** Maintenance Supervisor will prepare policy for testing and documenting these tests.**

15. Occupant use fire hose in cabinets to be serviced 5 years after the manufacture date of the hose and then every three years thereafter.

***** Maintenance Supervisor will prepare policy and document service.**

16. Employees of detention and correctional occupancies shall be instructed in the proper use of portable fire extinguishers and other manual fire suppression equipment. With respect to new staff, such training shall be provided promptly upon commencement of duty. With respect to existing staff, refresher training shall be provided at a minimum annually. Records shall be kept of such training.

***** Policy is being written to train employees**

17. Facility emergency generator providing power to emergency lighting systems and other equipment shall be installed, tested, and maintained in accordance with NFPA 110, Standard for Emergency and Standby Power Systems.

Note: Only records on premise support weekly running of generator consisting of crank up and almost immediate shut down times.

***** Maintenance Supervisor will review NFPA 110 and comply.**

18. All places noted on the inmate's complaint were inspected and if not listed above in remarks/comments then this deputy noted no code violations at this time.

19. The Facility Emergency Evacuation Plan was reviewed and found to be sufficient this date as prepared by Warden Hadley 9-18-06.
20. It was not proven that there was a faulty H2O heater was installed. There was a change over from propane gas to natural system. The system has been evaluated and there does not appear to be any more problem with this area.
21. The laundry area needs to be careful not to place combustibles with in 3 feet of the H2O heater.

Remedial action must be carried out immediately to correct all violations noted. The State Fire Marshal's Office does not grant permission or approval for the operation of any facility where code violations exist. A representative of this office will conduct a follow-up inspection within 15 to 30 days to examine remedial action efforts.

If you have any questions please do not hesitate to call 334-241-4166.

J.H. Thompson
Deputy State Fire Marshal
jeffrey.thompson@insurance.alabama.gov



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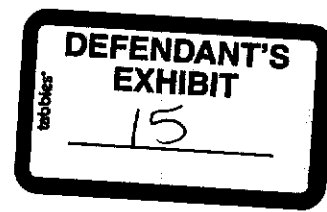
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STATE OF ALABAMA
DEPARTMENT OF CORRECTIONS
ALEXANDER CITY CBF

INMATE

TRANSACTION INFORMATION BY AIS# FROM JAN. 01, 2007 THRU JUL. 03, 2007

AIS#: 110574

NAME: MARSHALL, CARL VINCE

BED NBR: B01022A

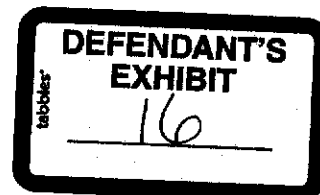
PMOD BALANCE: \$221.98

DATE OF TRANSACTION	PREVIOUS BALANCE	NAME OF PAYEE OR SENDER	TRANS. NUMBER	TYPE OF TRANSACTION	TRANSACTION AMOUNT	C. O. P. DEDUCTED	CURRENT BALANCE
04/05/2007	\$.00	INST. TRANSFER	2007003748	MISC RECEIPTS	\$ 9.25	\$.00	\$ 9.25
04/09/2007	\$ 9.25	THE INMATE	2007007831	MISC WITHDRAWAL	\$ 6.00	N/A	\$ 3.25
04/20/2007	\$ 3.25	AMERICAN COMM. SUPPLY	2007004071	MISC RECEIPTS	\$ 55.10	\$.00	\$ 58.35
05/01/2007	\$ 58.35	041007 HORSESHOE	2007004164	W/R PAYROLLS	\$ 60.30	\$.00	\$ 118.65
05/03/2007	\$ 118.65		2007009150	TRANSPORTATION	\$ 7.50	N/A	\$ 111.15
05/07/2007	\$ 111.15	INST. TRANSFER	2007004459	MISC RECEIPTS	\$ 32.40	\$.00	\$ 143.55
05/08/2007	\$ 143.55	THE INMATE	2007009355	MISC WITHDRAWAL	\$ 40.00	N/A	\$ 103.55
05/08/2007	\$ 103.55	PAT EDMONDSON	2007009612	MISC WITHDRAWAL	\$ 12.50	N/A	\$ 91.05
05/21/2007	\$ 91.05	TALLAPOOSA HEALTH DEPT	2007009939	MISC WITHDRAWAL	\$ 12.00	N/A	\$ 79.05
05/21/2007	\$ 79.05	THE INMATE	2007010056	MISC WITHDRAWAL	\$ 45.00	N/A	\$ 34.05
06/06/2007	\$ 34.05	060107 KOCH FDS	2007005111	W/R PAYROLLS	\$ 80.11	\$ 26.71	\$ 114.16
06/13/2007	\$ 114.16	THE INMATE	2007010646	MISC WITHDRAWAL	\$ 40.00	N/A	\$ 74.16
06/13/2007	\$ 26.71	CASE #2005-001513	2007010033	C.O.P. DISB.-01	\$ 26.71	N/A	\$.00 X
06/14/2007	\$ 74.16	060007 KOCH FDS	2007005200	W/R PAYROLLS	\$ 116.60	\$ 38.87	\$ 190.76
06/18/2007	\$ 190.76	061507 KOCH FDS	2007005404	W/R PAYROLLS	\$ 91.01	\$ 30.34	\$ 281.77
06/19/2007	\$ 281.77	PAT EDMONDSON	2007011206	MISC WITHDRAWAL	\$ 12.50	N/A	\$ 269.27
06/25/2007	\$ 269.27	062207 KOCH FDS	2007005561	W/R PAYROLLS	\$ 93.46	\$ 31.16	\$ 362.73
06/25/2007	\$ 362.73	MONEY TAKEN OFF INMATE	2007005623	MISC RECEIPTS	\$ 19.25	\$.00	\$ 381.98
06/28/2007	\$ 381.98		2007011709	TRANSPORTATION	\$ 20.00	N/A	\$ 361.98
06/29/2007	\$ 361.98	CARL MARSHALL	2007011793	MISC WITHDRAWAL	\$ 140.00	N/A	\$ 221.98

PAGE: 1

X = C.O.P. ESCROW

* = ERROR IN BALANCES



STATE OF ALABAMA
DEPARTMENT OF CORRECTIONS
ALEXANDER CITY CBF

INMACP

TRANSACTION INFORMATION BY AISH FROM JAN. 01, 2007 THRU JUL. 03, 2007

AISH: 110574		NAME: MARSHALL, CARL VINCE		BED NBR: B01022A		PMOD BALANCE: \$221.98	
DATE OF TRANSACTION	PREVIOUS BALANCE	NAME OF PAYEE OR SENDER	TRANS. NUMBER	TYPE OF TRANSACTION	TRANSACTION AMOUNT	C. O. P. DEDUCTED	CURRENT BALANCE
07/02/2007	\$ 100.37	CASE #2005-001513	2007011095	C.O.P. DISB.-01	\$ 100.37	N/A	\$.00 X
TOTALS:					\$ 1,020.06	\$ 127.00	

LAST PAGE: 2

X = C.O.P. ESCROW * = ERROR IN BALANCES